

**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2012-221

████████████████████
████████████████████

FINAL DECISION

This proceeding was conducted according to the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The Chair docketed the application on August 31, 2012, upon receipt of the applicant's completed application and subsequently prepared the final decision as required by 33 CFR § 52.61(c).

This final decision, dated May 30, 2013, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST AND ALLEGATIONS

The applicant asked to be paid basic allowance for housing (BAH)¹ for the period March 22, 2011 to May 23, 2011 based upon the ██████████ rate instead of the ██████████ rate that she received while at recruit training. She stated she that married a foreign national on March 2, 2011 and he resided in ██████████ during this period. She argued that according to the Coast Guard Pay Manual, she should have received BAH at the ██████████ rate because that is where her spouse resided while she was in recruit training. She stated there was confusion about where her spouse resided because she was told to put his parent's ██████ address as her spouse's address in case of an emergency because her spouse was a foreign national. She stated that she has been trying to get this matter corrected for over a year. She was discharged from the Coast Guard on May 23, 2011.

The applicant submitted a copy of her ██████████ marriage license that showed her husband's residence to be in the ██████████ and her residence to be in ██████████. She also submitted a copy of her BAH worksheet in which she stated that she was married and she listed ██████████ as her current housing address. The BAH worksheet stated that to request BAH for a

¹ BAH is a monthly allowance for housing payable to members on active duty and varies according to the grade in which the member is serving for basic pay purposes, the member's dependency status, and the permanent duty station to which the member is assigned. This allowance is authorized for members both "with" and "without" dependents. Chapter 3.C.1. of the Coast Guard Pay Manual.

location other than the permanent duty station the member should complete Coast Guard Form 2025A (not submitted by the applicant).

VIEWS OF THE COAST GUARD

On January 30, 2013, the Judge Advocate General (JAG) submitted the views of the Coast Guard. The JAG requested that the Board accept the comments from the Commander, Coast Guard Pay and Personnel Center (PSC) as part of the advisory opinion.

The JAG stated that according to Chapter 3.G.5.d. of the Coast Guard Pay Manual, the BAH rate for new accessions with dependents is based on the dependent's location if they are located in the United States and if located outside the United States BAH is based on the training site location. The JAG stated that for the applicant to receive BAH based on her dependent's location, she must prove by a preponderance of the evidence that her dependent-spouse was residing inside the United States at a different location while she was stationed at [REDACTED].

The JAG argued that the applicant has not proven by a preponderance of the evidence that her dependent-spouse was actually residing inside the United States while she was at recruit training at [REDACTED]. In this regard, the JAG stated that the marriage license submitted by the applicant shows her spouse's residence to be in the [REDACTED]. The JAG also noted that the applicant's DD 214 listed her spouse as her next of kin and that he was residing in [REDACTED] at the time of her discharge, but nothing on the DD-214 indicates that her spouse resided at the [REDACTED] address prior to the applicant's discharge on May 23, 2011. Further, the JAG noted that while the BAH housing worksheet indicates that the applicant is married and her then-current housing and mailing address were located in [REDACTED] her BAH worksheet did not indicate whether the applicant's spouse was also residing at that address. In this regard, the worksheet stated that "If you have dependents and they do not reside with you at this address, attach a separate sheet with their complete address and zip code." The JAG stated that there is nothing in the record indicating that the applicant submitted a separate work sheet with another address inside the United States for her spouse; nor is there a CG Form 2025A requesting BAH based on a location other than the applicant's permanent duty station. The JAG stated the Coast Guard properly entered her BAH based upon the applicant's permanent duty site, [REDACTED], because the required documents were not completed that showed the applicant's spouse was living in [REDACTED] while she was in recruit training at [REDACTED].

The JAG concluded by stating that the Coast Guard followed its policy in assigning the applicant's BAH based on her training site location in [REDACTED] because the record indicated that her dependent-spouse lived outside the United States.

PSC's comments were very similar to those offered by the JAG and will not be summarized.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On February 4, 2013, a copy of the views of the Coast Guard was sent to the applicant for her reply. The Post Office returned the letter to the Board marked "FORWARD TIME EXP TRN

TO SEND” . . . return to sender.” The BCMR staff notified the applicant by email at the address provided on her DD Form 149 that the advisory opinion had been returned to the Board by the Post Office and that we would resend it if she provided a current mailing address. No response was received from the applicant.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's military record and submissions, the Coast Guard's submission and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to section 1552 of title 10 of the United States Code. The application was timely.

2. With respect to the merits of the applicant's claim, Chapter 3 of the Pay Manual states that a member is entitled to monthly BAH in an amount that is based on their grade, dependency status, and permanent duty station. With regard to new accessions (new entrants into the Coast Guard), Chapter 3.G.5.d. of the Coast Guard Pay Manual states: “[O]nly the initial entry-training site is defined as a [permanent duty station]. . . . The BAH rate for new accession with dependents is based on the dependents location if they are located inside the U.S. If dependents are located outside the U.S., BAH is based on the train[ing] site.”

3. The Board agrees with the JAG, that the applicant has offered insufficient evidence to prove her spouse was living in [REDACTED] during the period in which she was in recruit training at [REDACTED]. In order for the Coast Guard to determine whether a married accession is entitled to BAH at a rate other than the recruit training site, the member must complete CG Form 2025A, in addition to the BAH housing worksheet, to request BAH for a location other than the permanent duty station. There is nothing in the record that shows that the applicant submitted CG Form 2025A requesting BAH for a location other than [REDACTED]. In addition, as the applicant admitted, there was conflicting information in her record with regard to her spouse's address because she had given his parent's address in the [REDACTED] for him in case of an emergency. Under the regulation, if the applicant's spouse was living outside of the United States her BAH would be based upon the location of her duty station. Since the applicant did not submit CG Form 2025A and there was evidence in her record suggesting that her spouse was not living in the United States, it was reasonable for the Coast Guard to conclude that she was entitled to BAH at the Cape May rate.

4. The Coast Guard did not commit an error or injustice by paying the applicant BAH at the [REDACTED] rate. However, it is clear to the Board that the applicant was married at the time of her recruit training, but she did not submit sufficient proof that her dependent-spouse actually lived in [REDACTED] while she was in recruit training. If within 180 days from the date of this decision, the applicant submits affidavits from friends, family, or business associates (landlord) stating that they have personal knowledge that her husband lived in [REDACTED] during the period of her recruit training, the Board will grant further consideration on this issue.

5. The applicant has failed to sufficient evidence to prove an error or injustice in this case and her application should be denied subject to the provision in finding 4.

ORDER

The application former [REDACTED], USCGR, for correction of her military record is denied.

