

DEPARTMENT OF TRANSPORTATION  
BOARD FOR CORRECTION OF MILITARY RECORDS

---

Application for Correction  
of Coast Guard Record of:

BCMR Docket  
No. 120-97

---


FINAL DECISION

 Chairman:

This is a proceeding under the provisions of section 1552 of title 10, United States Code. It was commenced on May 7, 1997, upon the BCMR's receipt of the applicant's request for correction of his record.

The final decision, dated March 26, 1998, is signed by the three duly appointed members who were designated to serve as the Board in this case.

**Applicant's Request for Relief**

The applicant, a former  pay grade E-4), resided in Coast Guard leased housing while he was on active duty. On October 5, 1993, he vacated the leased housing. (On November 1, 1993, he was discharged from the Service.) Another Coast Guard member was assigned to the quarters on October 16, 1993, but he refused to move in because of "the extensive damage."

On December 12, 1993, the owners of the leased housing filed a claim for \$1800 against the Government for damages. In November 1994, the Government settled the claim by the owners for damages, for \$918.92. A demand for payment letter was sent to the two individuals who were responsible for the damage. The applicant was notified, on February 21, 1995, that he was responsible for \$459.46, which was one half of the claim amount, for his share of the damages to Government Leased Housing.

The applicant now appears to be asking the Board to intervene to prevent the Service from collecting \$459.46 from him for damage to Coast Guard leased housing. He asked the Board to mark the claim satisfied or canceled on the ground that the applicant could not be responsible for the damage to the housing "if he received an honorable discharge from the Coast Guard." He believed his discharge made him immune from damage claims.

### **Views of the Coast Guard**

On March 20, 1997, a Coast Guard congressional liaison officer wrote a Member of Congress who had received a letter from the applicant, from whom the Coast Guard had attempted to collect money for damages to leased housing. The officer responded specifically to the applicant's argument that he could not be responsible for damages because he received an honorable discharge from the Coast Guard.

The officer said that there was no connection between the applicant's honorable discharge and his responsibility to pay the Government for damages. Although the applicant was discharged more than a year before he was sent a letter of demand for payment on the debt, "he is still responsible for the claim." The applicant's responsibility for any damages is not eliminated when he leaves the Service and his honorable discharge from the Coast Guard is not related to his liability for these damages.

The Chief Counsel of the Coast Guard recommended that the BCMR deny the application because the matter does not even suggest that any of the applicant's military records are related to the relief requested. The BCMR's jurisdiction is limited to correction of military records. The Chief Counsel also stated that the application for relief was incomplete under 33 CFR § 52.21(b).

### **Response of the Applicant**

On September 8, 1997, a copy of the views of the Coast Guard was sent to the applicant. The applicant was invited to submit a response to it if he had any objection to the views of the Coast Guard. The applicant did not submit any response.

### **CASE DECISION PRECEDENT**

In BCMR No. 104-93, the applicant requested reimbursement for travel costs that had been disallowed (reimbursement for the full cost of his flights rather than for the cost of comparable flights aboard a government contract carrier). The Coast Guard, in its advisory opinion, characterized "applicant's petition [as] a pure claim, rather than [as] a record correction request." The BCMR accepted that characterization and held that the applicant should have applied to the claims group of the Government Accounting Office, the prescribed route for monetary claims against the United States, before applying to the BCMR. The BCMR denied the application in BCMR No. 104-93 on the ground that the applicant has not exhausted his administrative remedies.

**FINDINGS AND CONCLUSIONS**

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

1. The BCMR has jurisdiction of the case, pursuant to section 1552 of title 10, United States Code. The application was timely.

2. Section 52.13(b) of title 33, Code of Federal Regulations, provides that "[n]o application shall be considered by the Board until the applicant has exhausted all effective administrative remedies afforded under existing law or regulations, and such legal remedies as the Board may determine are practical, appropriate, and available to the applicant."

3. The applicant could have appealed the Coast Guard's direction to pay damages to the owner of leased housing. The applicant could have appealed that direction to the Secretary of Defense in accordance with section 3702 of title 31, United States Code.

4. The Board determines that appealing to the Secretary of Defense was an effective, practical, and appropriate remedy that was available to the applicant.

5. The applicant failed to appeal the Coast Guard's decision, on payment of damages to the owner of leased housing, to the Secretary of Defense. He has, thereby, failed to exhaust his administrative remedies as required under section 52.13 of the Board's rules.

6. Accordingly, the application should be denied.

**ORDER AND SIGNATURES ON FOLLOWING PAGE**