



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

DJC
Docket No. NR8385-13
27 Jun 14

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) CNP memo 7220 Ser N130C/13U0570 dtd 19 Jun 13
(3) DEERS printout
(4) Contract on the house
(5) BUPERS order 2861 dtd 13 Oct 11
(6) POLL printout
(7) Branch Medical Clinic NAVSTA Norfolk ltr dtd 15 Jan 13
(8) DOP, NMC, Portsmouth ltr dtd 6 Jun 13
(9) Deed of the house
(10) Petitioner's E-mail dtd 27 Jun 14
(11) NAVSUPSYSCOM's E-mail dtd 26 Jun 14
(12) Subject's naval record

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show Petitioner is entitled to Basic Allowance for Housing (BAH) at the previous Permanent Duty Station (PDS) rate based on a close proximity move.

2. The Board, consisting of Mr. Zsalman, Mr. George, and Mr. Ruskin, reviewed Petitioner's allegations of error and injustice on 23 June 2014 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Petitioner's daughter [REDACTED] was born on [REDACTED].
See enclosure (3).

c. Petitioner's construction on a house [REDACTED] began on or about [REDACTED] See enclosure (4)

d. Petitioner received official change of duty orders on or about 13 October 2011, to NORTHCOM JTF-CS, Fort Eustis, VA (32.3 miles from previous permanent duty station (PDS), FLTREADCEN MA DET, Norfolk, VA). Orders contained Household Goods (HHG) funding. See enclosure (5).

e. Petitioner transferred from FLTREADCEN MA DET, Norfolk, VA on 14 November 2011. See enclosure (6).

f. Petitioner arrived to NORTHCOM JTF-CS, Fort Eustis, VA on 30 November 2011. See enclosure (6).

g. On 15 January 2013, Petitioner was enrolled in the Exceptional Family Member Program (category 5) with an effective date of 23 February 2011. See enclosure (7).

h. Petitioner provided a letter dated 6 June 2013 from Department of Pediatrics, Naval Medical Center, Portsmouth, VA with a description of the child's medical history. The child was in neonatal intensive-care unit (NICU) from birth to 25 March 2011 (approximately 4 ½ months), and continued occupational therapy until June 2012. The child is currently still receiving services from Developmental Pediatrics for issues related to her extreme prematurity. See enclosure (8).

i. Petitioner closed on the house [REDACTED] on [REDACTED] See enclosure (9)

j. Petitioner moved from [REDACTED] on or about [REDACTED] Furthermore, she did not move at government's expense. See enclosures (10) and (11).

k. Per enclosure (2), the Chief of Naval Personnel provided an advisory opinion concluding that the evidence proffered by Petitioner is insufficient to support the requested record change. The advisory opinion points out the following evidence to support its position: Petitioner's daughter is enrolled as a CAT 5 in the Exceptional Family Member (EFM) program requiring the member to homestead. Furthermore, Petitioner received orders to Fort Eustis, VA, 32 miles from Norfolk, VA, considered as the homestead billet for the purposes of facilitating the medical needs of the member's daughter. Nevertheless, Petitioner does not qualify for BAH at Norfolk rate due to this alone. Additionally, Petitioner needed to request a close proximity move prior to the executions of her orders to retain Norfolk BAH.

CONCLUSION

Upon review and consideration of all the evidence of record, and notwithstanding the opinion expressed in enclosure (2), the Board finds the existence of an injustice warranting corrective action. The Board relied heavily on the medical issues of Petitioner's child that occurred when she was born in 2010, and which continue to exist. Shortly thereafter, she was enrolled in the EFM program (category 5) with an effective date of 23 February 2011. Furthermore, Petitioner received orders and transferred within 31 days (short fuse). Moreover, Petitioner signed a contract on a home on 13 August 2011 prior to her orders being issued, and she closed on the house on 8 August 2013. The new home is about the same distance to her child's medical treatment center, and provides a better dwelling for her child. Additionally, Petitioner transferred from Norfolk, VA to Fort Eustis, VA, 32 miles away. The Board concluded that the record should be changed to show Petitioner executed a written request to remove the Household Goods (HHG) funding from her orders issued on 13 October 2011, and to continue BAH entitlement at the Norfolk/Portsmouth, VA 23511 rate prior to PCS. The Board also concluded that the record should be changed to show Petitioner executed a written request to continue BAH entitlement at the Norfolk/Portsmouth, VA 23511 rate after her arrival to new PDS and move to a new home.

RECOMMENDATION:

That Petitioner's naval record be corrected, where appropriate, to show that:

a. Petitioner executed a written request to remove the Household Goods (HHG) funding from her orders issued on 13 October 2011. The request was received by cognizant authority and approved with an effective date of 14 October 2011.

b. Petitioner executed a written request to continue BAH entitlement at the Norfolk/Portsmouth, VA 23511 rate. The request was received by cognizant authority and approved with an effective date of 9 August 2013.

c. Petitioner is authorized Basic Allowance for Housing (BAH) with dependents at the Norfolk/Portsmouth, VA 23511 rate from 30 November 2011 to present.

d. A copy of this Report of Proceedings will be filed in Petitioner's naval record.

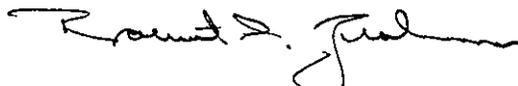
4. It is certified that quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


BRONIE I. MONTGOMERY
Acting Recorder

5. The foregoing action of the Board is submitted for your review and action.

27 Jun 14



ROBERT D. ZSALMAN
Acting Executive Director

Reviewed and approved.

 7/22/14

ROBERT L. WOODS
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~~Reviewed and disapproved.~~