



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

[REDACTED]
Docket No. 6079-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO FORMER MBR [REDACTED]
[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552
(b) DoD 7000.14-R FMR, Volume 7A. Chapter 26

Encl: (1) DD Form 149 w/attachments
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected to show Petitioner received Basic Allowance For Housing (BAH) single from 5 November 2020 to 17 June 2022.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 29 November 2022 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, relevant portions of Petitioner's naval record, 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. In accordance with reference (b), A Service member without a dependent in grade E-4 assigned to permanent sea duty aboard a ship cannot elect not to occupy assigned shipboard Government quarters and receive BAH or Overseas Housing Allowance (OHA). Under Service regulations, the Secretary concerned may authorize BAH or OHA to a Service member without a dependent who is serving in grade E-4 and is assigned to sea duty. When preparing regulations under this paragraph, the Secretary concerned must consider Government quarters availability for a Service member serving in grade E-4.

c. On 3 November 2016, Petitioner got married to an active duty U.S. Army service member.

Subj: REVIEW OF NAVAL RECORD ICO FORMER MBR [REDACTED],
[REDACTED]

d. On 6 December 2017, Petitioner entered active duty for 4 years with an End of Active Obligated Service (EAOS) of 5 December 2021 and Soft End of Active Obligated Service (SEAOS) of 5 December 2022.

e. On 29 March 2018, Petitioner's BAH at the without dependents rate for [REDACTED] started.

f. On 12 June 2020, Petitioner's BAH at the with dependents rate for [REDACTED] started.

g. On 11 August 2020, Petitioner's spouse was separated from the U.S. Army.

h. On 5 November 2020, a hearing was held on this matter (Decree of dissolution of marriage). The separation agreement (Marriage) filed on 8 June 2020 was incorporated into the Decree. So ordered on 8 November 2020 (nunc pro tunc 5 November 2020).

i. On 8 November 2020, Petitioner's BAH at the with dependents rate for [REDACTED] stopped.

j. On 9 November 2020, Unaccompanied Housing, Naval Base [REDACTED] certified that Petitioner had never resided in Unaccompanied Housing Naval Base [REDACTED]

k. On 9 November 2020, Petitioner submitted Special Request/Authorization (NAVPERS 1336/3) requesting single BAH. Petitioner's request was approved by cognizant authority on 9 November 2020.

l. Petitioner was discharged with an Honorable character of service and was issued a Certificate of Release or Discharge from Active Duty (DD Form 214) for the period of 6 December 2017 to 17 June 2021 for a condition, not a disability.

m. On 26 January 2022, Deputy Assistant Secretary of the Navy (Military Manpower and Personnel) notified Commanding Officer, [REDACTED] that 1. In response to [REDACTED] letter 7220 Ser DDG 83/340 of 25 November 2020 and in accordance with DoD 7000.14-R FMR, the request for Petitioner to receive single basic allowance for housing (BAH) as an E-4 with less than four years of service was approved for the period of 8 November 2020 to 5 July 2021.

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of reference (b) and enclosure (2), the Board finds the existence of an injustice warranting the following corrective action. The Board concluded that Petitioner was married to an active duty Army spouse at the time of entry on active duty. Petitioner received BAH at the without dependents rate for [REDACTED] starting on 29 March 2018. Petitioner began to receive BAH at the with dependents rate beginning on 12 June 2020, however, Petitioner's spouse was not discharged until 11 August 2020. Furthermore, on 26 January 2022, Deputy

Subj: REVIEW OF NAVAL RECORD ICO FORMER MBR [REDACTED],
[REDACTED]

Assistant Secretary of the Navy (Military Manpower and Personnel) approved Petitioner's request for BAH at the without dependent rate for the period of 8 November 2020 to 5 July 2021, however, Petitioner's divorce was effective 5 November 2020, vice 8 November 2020 and Petitioner was discharged on 17 June 2021. Therefore, the Board determined that Petitioner was entitled to BAH at the with dependent rate for [REDACTED] from 12 August 2020 to 5 November 2020 and BAH at the without dependents rate for [REDACTED] from 6 November 2020 to 17 June 2021, the date of discharge.

RECOMMENDATION

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

Petitioner was authorized BAH at the with dependents rate for [REDACTED], from "12 August 2020" vice "12 June 2020" to "5 November 2020".

Petitioner was authorized BAH at the without dependents rate for [REDACTED], from "6 November 2020" to "17 June 2021".

Note: Defense Finance & Accounting Service (DFAS) will complete an audit of Petitioner's records to determine if Petitioner is due any back pay.

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

4. It is certified that a 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.
5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of the reference, has been approved by the Board on behalf of the Secretary of the Navy.

[REDACTED] /2022