

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-00566

XXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

Correct his records to show a reserve retirement and retired pay at age 60.

APPLICANT'S CONTENTIONS

In 2007 he was not properly counseled by his unit on the process for submitting a reserve retirement package. His unit told him he could apply for retirement pay when he reached age 60. He filled out the forms and they were rejected. He served 22 good years in the Air Force Reserve and requests to be transferred to retired status with full retirement benefits. He turned 60 years old on 9 May 20.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force technical sergeant (E-6).

On 12 Apr 82, according to AFRES Form 116, *Request and Authorization for Discharge and Enlistment/Reenlistment of Air Force Reserve Airmen*, the applicant entered the Air Force Reserve.

On 9 Jul 02, according to HQ ARPC/DPPR memo, the applicant completed the required years of service under the provisions of Title 10, United States Code (U.S.C.), Section 12731, and he was entitled to retired pay upon application at age 60.

On 10 Sep 07, according to HQ AFRC/A1BL memo, officials within the Office of the Secretary of the Air Force determined the applicant was physically unfit for further military service and would be discharged with severance pay effective 19 Sep 07.

On 19 Sep 07, according to AF IMT 100, *Request and Authorization for Separation*, the applicant was honorably discharged and entitled to disability with severance pay in the grade of technical sergeant.

For more information, see the excerpt of the applicant's record at Exhibit B.

AIR FORCE EVALUATION

ARPC/DPTT recommends denying the application. On 19 Sep 07, the applicant was found physically unfit for further military service and was discharged with entitlement to severance pay under Title 10 U.S.C. 1212. There was no attempt from the applicant to apply for a reserve retirement upon being discharged. A review of the applicant's Military Personnel Record shows that as of 20 Sep 07, he completed 21 years, 0 months and 0 days of satisfactory Federal service.

Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice because the documentation reflects the member was entitled to and may be receiving severance pay.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 29 Jul 21 for comment (Exhibit D), but has received no response.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is the victim of an error or injustice. While the Board notes the recommendation of ARPC/DPTT against correcting the record, the Board finds a preponderance of the evidence substantiates the applicant's contentions. The Board notes that prior to the applicant's disability discharge in Sep 07, he had completed the required years of service for retirement at age 60 in Jul 02. The Board finds that if the applicant had known of the formalities of the retirement application process, he would have adhered to them since he had served the required time to be eligible for a Reserve retirement. To deny relief in this circumstance would be to place form over substance, to the detriment of the applicant. However, the applicant should be aware that his retired pay will be reduced by the amount of disability severance pay received. Therefore, the Board recommends correcting the applicant's records as indicated below.
4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that:

a. He was not discharged from the Air Force Reserve on 19 September 2007, but on that date, he was assigned to the Retired Reserve Section, and his name was placed on the Retired Reserve List, and he was eligible for retired pay at age 60 effective 9 May 2020, under the provisions of Title 10, USC, Section 12731.

b. His retired pay be reduced by the amount of disability severance pay received.

CERTIFICATION

The following quorum of the Board, as defined in Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2021-00566 in Executive Session on 2 Nov 21:

, Panel Chair
, Panel Member
, Panel Member

All members to correct the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 23 Nov 20.
Exhibit B: Relevant excerpts from official records.
Exhibit C: Advisory opinion, ARPC/DPTT, w/atchs, dated 12 Apr 21.
Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 29 Jul 21.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.

X

Board Operations Manager, AFBCMR