

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-00794

XXXXXXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Correct his official military record to reflect:

a. He used 20 days of Permissive Temporary Duty (PTDY) and 84 days of Terminal Leave, for a total of 104 days, vice 104 days Terminal Leave, for the period 16 Jun 20 – 30 Sep 20.

b. Cancel the debt and reimburse funds erroneously collected.

APPLICANT'S CONTENTIONS

He had the correct number of leave days and 20 days of PTDY; however, the base finance office performed an error with the paperwork. Over a year has passed since his retirement and he is being charged for a month of pay. He noticed the debt on his retire account statement. When he called the Defense Finance and Accounting Service, he was notified his leave and 20 days of PTDY was not submitted properly.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 20 May 20, according to AF Form 988, *Leave Request/Authorization*, provided by the applicant, he requested, and was approved for 104 days of Terminal Leave for the period 19 Jun 20 – 30 Sep 20, and was issued Leave Authorization Number XXXXX.

On 30 Sep 20, the applicant was furnished an honorable discharge with Narrative Reason for Separation: Sufficient Service for Retirement and was credited with 20 years and 1 day of active service.

On 1 Oct 20, according to Special Orders No. XXXXX, dated 20 Dec 19, the applicant was retired.

On 4 Jan 22, according to Case Management System Number XXXXX, provided by the applicant, he requested resolution of the leave error and cancellation of the resulting debt which had already begun involuntary deductions from his retirement pay.

On 6 Jan 22, according to AF Form 988, provided by the applicant, he requested 20 days of PTDY for the period 19 Jun 20 – 8 Jul 20.

On 6 Jan 22, according to AF Form 988, provided by the applicant, he requested 84 days of Terminal Leave for the period 9 Jul 20 – 20 Sep 20.

On 6 Jan 22, according to AF Form 988, provided by the applicant, he requested cancellation of 74 days of Terminal Leave (Leave Authorization Number XXXXX) for the period 19 Jun 20 – 31 Aug 20. His request was approved on 20 Jan 22.

On 6 Jan 22, according to AF Form 988, provided by the applicant, he requested cancellation of 30 days of Terminal Leave (Leave Authorization Number XXXXX) for the period 1 Sep 20 – 30 Sep 20. His request was approved on 20 Jan 22.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisories at Exhibits C and E.

AIR FORCE EVALUATION

AFPC/DP2SSM recommends granting the application. Based on the documentation provided by the applicant and analysis of the facts, there is evidence of an error or injustice. The applicant was incorrectly advised by the base finance office; therefore, now incurs a debt for excess leave. The applicant provided supporting documentation with the following: (1) Terminal Leave initially submitted: 19 Jul 20 – 30 Sep 20; 104 days; (2) Terminal Leave correction: 9 Jul 20 – 20 Sep 20; 84 days; (3) Permissive Leave correction: 19 Jun 20 – 8 Jul 20; 20 days

He also provided copies of his Retiree Account statements beginning Dec 21 which reflect a monthly debt of \$312.04. The base-level finance office provided a case on the applicant's leave situation. They referenced how he was wrongly advised regarding his leave, and he submitted a leave request for 104 days; however, 20 days should have been PTDY (84 days terminal leave and 20 days permissive leave for a total of 104 days of leave). This error was not caught at the base-level causing the applicant to go into excess leave and incur a debt. The debt was sent to a collections agency and involuntary deductions have been started.

In accordance with Air Force Instruction 36-3003, *Military Leave Program*, dated 24 Aug 20, terminal leave is chargeable leave taken in conjunction with retirement or separation from active duty. Member's last day of leave coincides with the last day of active duty and unit commanders approve terminal leave. PTDY is an administrative absence under DoD Instruction 1327.06, *Leave and Liberty Policy and Procedures*, for which funded TDY is not proper. PTDY is non-chargeable leave of absence. Commanders should not grant PTDY solely because the unit lacks official TDY funds. PTDY is an authorized absence limited to reasons in Table 3.6 below. Before approving PTDY, commanders should ensure the reason for PTDY is outlined in the specific rules in Table 3.6. Authorizing PTDY, Rule 2. If a member requests PTDY for a pre-separation or retirement relocation activity such as job or residence search and is eligible under as: (1) Voluntary separation incentive separatee. (2) Special separation benefits separatee. (3) Involuntary separatee (including "for cause" separatees eligible under DoDI 1332.35, *Transition Assistance Program (TAP) for Military Members*, paragraph 7.3.e (4) Retiree, then the losing commander may approve up to 20 days for Continental US (CONUS)-based members and up to 30 days for members stationed (OCONUS), unless to do so would interfere with the military mission. Comments: "(1) Commanders cannot authorize terminal leave to "for cause" separatees authorized PTDY or other involuntary separatees required to separate at the earliest possible date. (2) PTDY occurs within 180 days of the separation or retirement date. (3) Members may take PTDY: (a) In increments up to the maximum permitted, but not successive Mondays through Fridays. (b) In conjunction with terminal leave. (c) As requests that require final processing in CONUS or that qualify as a stand-alone round trip....(6) Member can request PTDY in lieu of excess leave, but not both, if eligible."

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 11 Apr 22 for comment (Exhibit D) but has received no response.

ADDITIONAL AIR FORCE EVALUATION

In an amended advisory, AFPC/DP2SSM again recommends granting the application; however, provides additional detail on possible corrective language.

The complete amended advisory opinion is at Exhibit E.

APPLICANT'S REVIEW OF ADDITIONAL AIR FORCE EVALUATION

The Board sent a copy of the amended advisory opinion to the applicant on 2 Sep 22 for comment (Exhibit F) 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. The Board concurs with the rationale and recommendation of AFPC/DP2SSM and finds a preponderance of the evidence substantiates the applicant's contentions. The applicant's leave request met the requirements of AFI 36-3003; however, there was an error in how the request was submitted and this error was not caught by the processing finance office prior to the applicant's retirement. Therefore, the Board recommends correcting the applicant's records as indicated below.

RECOMMENDATION

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

- a. His official military leave records reflect 20 days of PTDY for the period 19 Jun 20 through 8 Jul 20; and 84 days of Terminal Leave for the period 9 Jul 20 through 30 Sep 20.

The debt resulting from the erroneous leave dates be cancelled, and all funds already collected are to be refunded to the applicant.

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-2022-00794 in Executive Session on 18 Nov 22:

- , Panel Chair
- , Panel Member
- , Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 28 Feb 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, AFPC/DP2SSM, dated 8 Apr 22.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 11 Apr 22.
- Exhibit E: Amended Advisory opinion, AFPC/DP2SSM, dated 29 Aug 22.
- Exhibit F: Notification of advisory, SAF/MRBC to applicant, dated 2 Sep 22.

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