

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-01759

XXXX X. XXXX

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

He be reimbursed for a personal procured move (PPM) from XXXX to XXXX.

APPLICANT'S CONTENTIONS

He was asked to return to Active Duty (AD) from the Air National Guard (ANG) where he was serving as the commander. Due to staff issues at Headquarters Air Force (HAF) the Voluntary Limited Period of Active Duty Program (VLPAD) was not an option at that time and he was asked to accept an Military Personnel Appropriation (MPA) tour while HAF worked his return to AD. Since his MPA orders were less than 180 days, he was granted a Permanent Change of Station (PCS) waiver to relocate his family and due to the pandemic he was advised to execute a Do-It-Yourself (DITY) move. Because of delays in receiving orders and issues with the Traffic Management Office (TMO) he submitted a letter in lieu of orders memorandum and moved his household goods (HHG). He was given Verbal Orders of the Commander (VOCO) from the incoming wing commander to proceed. The letter was kicked back after his goods were shipped and once corrected, he resubmitted the letter. His Report No Later Than Date (RNLTD) was 1 Jun 21 and five days prior to this he still had not received orders. He notified the gaining unit that he would make the RNLTD and while he arrived on 1 Jun 21, he was not issued his orders until 10 Jun 21. As such, when he attempted to file his voucher with TMO for reimbursement it was denied. He has reengaged and provided memorandums from the gaining commander confirming the VOCO orders coordinated with National Guard Bureau (NGB) and 2nd Air Force attempting to have his orders amended without success.

The applicant goes on to cite Joint Travel Regulations (JTR) 010206-A Modifications after Travel, which states: Travel authorizations and orders cannot be retroactively modified to increase or decrease an allowance after the travel is completed. A travel authorization or order may be retroactively corrected to show the original intent (CBCA 3472-RELO September 23, 2013). When an allowance is approved after travel begins, it does not constitute a retroactive modification to create, change, or deny an allowance. An amendment is effective on the date it is issued and is not retroactive unless it contains language that corrects an error or omission, or provides a confirmation of the date of the verbal authorization.

His request is not asking for "increasing or decreasing" any entitlements, but to be reimbursed for expenses provided in his PCS order. He takes responsibility for moving his HHG without orders but was operating under guidance from TMO counselors, and his HHQ during a pandemic. This has caused undue financial burden to his family.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a currently serving lieutenant colonel (O-5) in the Air National Guard (ANG).

Order Number XXXX, dated 8 Jun 21, provided by the applicant, shows that he was on AD for Voluntary Non-Contingency (MPA) in accordance with 10 USC 12301(d) for the period of 1 Jun 21 to 1 Jun 22. Line remark 17 states VOCO on 1 Jun 21 is confirmed; circumstances prevented written orders in advance. Line remark 32 states applicant is entitled to government PPM.

On 28 Jul 21, a memorandum from the applicant's commander and provided by the applicant, shows a request for an Amendment/Confirmatory PCS order. The memo includes the following statement to be used on the order:

“Omission/Confirmation on PCS order to confirm verbal approval was given o/a March 2021 for XXXX to proceed with moving his HHG and family to XXXX. This authorization given to meet mission requirements. IAW JTR 010206 verbal authorization followed up in writing before allowances are paid.”

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

AIR FORCE EVALUATION

PPA HQ/LHE recommends denying the application. In accordance with JTR paragraph 010206, Travel and transportation allowances are payable only after valid orders are issued. The order directs travel to, from, or between official points and serves as the basis for the trip and associated reimbursements. A travel authorization or order should be issued before travel begins. Travel or expenses incurred before a travel authorization or order is issued are not reimbursable, unless otherwise stated in the JTR. In unusual or urgent situations when travel must begin before a written authorization or order can be issued, a verbal authorization may be given. In such cases, the verbal authorization must be followed up in writing (called a “confirmatory order”) before allowances are paid. A travel order may only contain authority for travel and transportation allowances provided within the JTR. If there is any conflict between a travel order and the JTR, the JTR prevails.

In the applicant's memorandum dated 14 Jun 21 he states due to COVID and several administrative errors he was given authorization to move his personal property prior to issuance of orders; however, the requirement as outlined in JTR, paragraph 051302-B1 was not followed. The supporting documentation presented by the applicant indicated the required documents were issued several months after the PPM was performed. In accordance with JTR, paragraph 051302-B2, the length of time before the PCS order is issued, during which a Service member may be advised that an order is to be issued, is limited to the relatively short period between the time when a determination is made to order the Service member to make a PCS and the date the order is actually issued.

Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice committed on behalf of the transportation community. PPA HQ/LHE's review of the PPM indicate that had the orders been issued before the move, his PPM would have met the intent of the JTR and would have been reimbursed in accordance with AFI 24-602 V4, *Personal Property Moving and Storage*. However, because the PCS order nor a confirmatory order were issued prior to the start date of the PPM, the transportation community had no choice but to recommend denial of reimbursement based on JTR, paragraph 010206.

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 17 Aug 22 for comment (Exhibit D), and the applicant replied on 22 Aug 22. In his response, the applicant contended continually that confirmatory orders were given multiple times via phone and memorandum, and the actions have now spanned over a year because orders were given and not actioned. Additionally, multiple letter-in-lieu memorandums were provided to the TMO office. Based on delays caused by COVID, responses from the TMO office were delayed significantly and the applicant was ordered to still report on 1 Jun 21. The applicant believes regardless of the timeline associated with the clerical error, it is in no way justification for not paying the PCS entitlements that the orders afford. Furthermore, the total outlined by the advisory is only for the weight of the applicants HHGs and does not include the amount paid for contracted expenses which is reimbursable. Finally, the applicant included a confirmatory order memorandum and a justification memorandum.

The applicant's complete response is at Exhibit E.

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 PPA HQ/LHE against correcting the record, the Board finds a preponderance of the evidence substantiates the applicant's contentions. The Board found the applicant's commander authorized the applicant to proceed on moving his HHG and family prior to orders being completed. The applicant relied upon this authorization and to not reimburse him fully for this PPM constitutes an injustice to the applicant. 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 he is authorized to receive 100% of the Government Constructive Cost (GCC) for 7,740 pounds from XXXX, to XXXX, in the amount of \$9,718.80, as allowed in Joint Travel Regulations (JTR), paragraph 051502-C.

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-2022-01759 in Executive Session on 11 Oct 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 23 Jun 22.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, PPA HQ/LHE, w/atchs, dated 14 Jul 22.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 17 Aug 22.
Exhibit E: Applicant's Response, w/atchs, dated 22 Aug 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