

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 January 2024

DOCKET NUMBER: AR20230004994

APPLICANT REQUESTS: reversal of the National Guard Bureau (NGB) denial to retain the remainder of her \$12,000.00 Reenlistment/Extension Bonus (REB).

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Orders Number 191-574, 10 July 2015
- DA Form 4836 (Oath of Extension of Enlistment or Reenlistment), 17 July 2016
- NGB Form 600-7-3-R-E (Annex R to DD Form 4 or DA Form 4836 REB Addendum Army National Guard (ARNG) of the U.S. (ARNG), 17 July 2016
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 19 August 2016
- Orders Number HO-324-0106 (A3), 1 September 2016
- Orders Number 337-1058, 3 December 2018
- Leave and Earnings Statement (LES)
- Memorandum – Subject: Request for Exception to Policy (ETP) for REB, 26 March 2020

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.
2. The applicant states in pertinent part that on 21 April 2023, she was advised that the submitted request for an ETP to retain entitlement to her REB was denied due to a command directed transfer in order to "right the force." She contests that the transfer was outside of her control and notes that in accordance with NGB Form 600-7-3-R-E her transfer was due to normal career progression.
3. A review of the applicant's available service records reflects the following:

a. On 27 October 2004, the applicant enlisted in the ARNG for 8 years to serve as a 42A (Human Resources Specialist). She completed training for award of military occupational specialty 42A, HR Specialist on or about 31 March 2006.

b. On 3 October 2010, the applicant elected to extend her current enlistment by 6 months and on 28 March 2011, the applicant elected to extend her current enlistment by 6 years.

c. On 16 November 2012, the CAARNG issued Orders Number 321-1026 announcing the applicant's promotion to the rank/grade of sergeant (SGT)/E-5, effective 7 November 2012.

d. On 17 July 2016, the applicant elected to extend her current enlistment by 6 years in Military Occupational Specialty (MOS) 42A, with entitlement to a \$12,000.00 REB to be disbursed in 2 increments (50 percent processed the day after her current expiration term of service date, verification of her MOS (42A) and unit of assignment – 50 percent processed on the 4th year anniversary of her REB start date). NGB Form 600-7-3-R-E, Section V (Continued Receipt) provides that any transfer order stating "Individual's Request or in accordance with State Laws and Regulations" will not substantiate retention of the REB unless the reason for transfer is specified in the "Remarks Section." "My REB MOS is changed due to normal career progression (per DA Pamphlet (PAM) 611-21). I may be eligible to retain my REB for which contracted if I am still considered Duty MOS Qualified, assigned as the primary position holder and am not listed as excess (9993). Command-directed moves are the only authorized exception. A copy of my transfer order must be uploaded into iPERMS." Section VI (Termination) provides that termination of the REB may occur if the Soldier is placed into excess Code 9993. Exception – if the Soldier is placed in an over-strength status due to unit inactivation, relocation, reorganization, or converted (unit transformation or reorganization), the Soldier will be considered eligible, to include their initial payment). The effective date of termination is the effective date the Soldier was assigned as excess.

e. On 13 September 2016, the CAARNG issued Orders Number 257-1004, transferring her from the 640th Area Support Battalion (ASB) to the 49th Personnel Company, effective 25 August 2016, in duty MOS 42A. The position was coded as excess.

f. On 29 September 2017, the CAARNG issued Orders Number 272-1006 announcing her promotion to staff sergeant (SSG)/E-6, effective 8 September 2017.

g. On 23 February 2018, the CAARNG issued Orders Number 54-1041, transferring the applicant from the 49th Personnel Company to the 223rd Regiment – CAARNG,

effective 1 March 2018. The reason/purpose of this transfer is noted as "not applicable (NA)." The applicant was assigned to a position coded as excess.

h. On 3 December 2018, the CAARNG issued Orders Number 337-1058 amending Orders Number 54-1041 to reflect a change in the purpose of her reassignment to reflect "Command Directed Transfer due to Right the Force" rather than "NA."

4. The applicant provides the following:

a. Orders Number 191-574 dated 10 July 2015, reflective of the applicant being ordered to active duty on 30 September 2015, for a period not to exceed 400 days in support of Operation Enduring Freedom Spartan Shield.

b. DD Form 214, ending on 19 August 2016, reflective of the applicant's service on active duty from 30 September 2015 – 19 August 2016.

c. Orders Number HO-324-0106 (A3) dated 1 September 2016, reflective of Orders Number HO-324-0106 being amended to reflect a change of the accounting code.

d. LES reflective of the applicant's pay and entitlements on 15 November 2017. During this period, the applicant was paid \$6,000.00 of her REB.

e. Memorandum – Subject: Request for ETP for REB, dated 26 March 2020, reflective of the NGB's disapproval of the applicant's submitted request for an ETP to retain her REB noting that she enlisted/transferred into an unauthorized Table of Distribution and Allowances (TDA) in violation of the ARNG Selected Reserve Incentive Program (SRIP) Number 16-01. The applicant was granted relief from recoupment effective the date that she was transferred into the TDA unit.

#### BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The Board noted the applicant's command directed transfer to the TDA unit and relief from recoupment of the bonus. However, due to her transfer to an unauthorized TDA vacancy, she no longer qualified for the incentive.



REFERENCES:

1. Title 10, USC, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. ARNG Selected Reserve Incentive Program (SRIP) Number 16-01 provides guidance pertaining to REB for FY16. Paragraph 4 (REB) provides the REB are based upon a term with \$12,000.00 being applied to service members reenlisting/extending for 6 years. Payments will be disbursed in 2 increments: 50 percent upon contract start date and 50 percent processed on the 4th anniversary date. Paragraph 4d. (Restrictions) provides that eligible service members must have:

- less than 13 years of service at contract start date
- be in the pay grade of E-7 or below
- must be the primary slot holder

3. National Guard Regulation 600-7 (Selected Reserve Incentive Programs (SRIP)) provides responsibilities, lists benefits, describes eligibility criteria and entitlement, sets suspension, termination, and recoupment requirements, and prescribes processing and payment procedures related to the SRIP. Chapter 3 (Selected Reserve Incentive Program – Reenlistment/Extension Bonus) provides that the State Incentive Manager will verify the reenlistment/extension as prescribed by State policy for accuracy of the reenlistment or extension document to include Bonus Control Numbers and Bonus Unit eligibility.

a. Paragraph 3-5 (Entitlement) provides that entitlement to a bonus for an immediate reenlistment begins on the date of the oath of enlistment; the extension bonus on the first day of the extended period of service. Soldiers must remain qualified in and awarded as primary the MOS for their position in a bonus unit for continued entitlement. Further, the Soldier must be qualified in and awarded the MOS for his/her position in a valid MTOE position in a bonus unit at the time the reenlistment or extension takes effect (the date of the oath of enlistment for an immediate reenlistment).

b. Paragraph 3-10 (Termination with Recoupment) provides the requirement to terminate entitlement and eligibility for the Reenlistment Bonus when the service member voluntarily transfers to a non-bonus unit as of the effective date of transfer.

c. Paragraph 3-9 (Termination without Recoupment) provides the requirement to terminate entitlement and eligibility from the Reenlistment Bonus when the service

member who reenlisted/extended is transferred due to reorganization, inactivation or relocation.

//NOTHING FOLLOWS//