

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 August 2024

DOCKET NUMBER: AR20230014455

APPLICANT REQUESTS:

- in effect, reversal of the U.S. Army Human Resources Command's (HRC) decision to disapprove her request for remission or cancellation of indebtedness in the amount of \$4,027.20
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Orders Number R-04-201771, 7 April 2022
- DA Form 31 (Request and Authority for Leave), 13 May 2022
- DD Form 1351-2 (Travel Voucher or Subvoucher), 8 July 2022
- Unit Transmittal Letter, 22 July 2022
- Defense Military Pay Office (DMPO) Fort Meade Memorandum for Record (MFR) - Subject: Active Duty In-Processing Checklist, 22 July 2022
- DA Form 5960 (Authorization to Start, Stop, or Change Basic Allowance for Quarters (BAQ, and/or Variable Housing Allowance), 22 July 2022
- Army Military Pay Office Fort Meade Memorandum - Subject: Notice of Indebtedness, 8 August 2022
- 363rd Military Police Company Memorandum - Subject: Recommendation for Remission/Cancellation Packet - Applicant, 22 August 2022
- 336th Military Police Battalion Memorandum - Subject: Recommendation for Remission/Cancellation Packet - Applicant, 30 August 2022
- DA Form 3508 (Application for Remission or Cancellation of Indebtedness), 7 September 2022
- DA Form 2823 (Sworn Statement), 8 September 2022
- Defense Finance and Accounting Service (DFAS) Military Leave and Earnings Statement (LES), 1-30 September 2022
- Army Military Pay Office Fort Meade Memorandum - Subject: Applicant, 25 November 2022
- HRC Memorandum - Subject: Remission or Cancellation of Indebtedness - Applicant, 30 November 2022

FACTS:

1. The applicant states:

a. There is a debt letter stating that she was overpaid \$4,027.20. She just moved to West Virginia due to a Permanent Change of Station (PCS) in June from New York.

b. She received an email on 12 August 2022 regarding a debt letter from DFAS at Fort Meade. She called the point of contact in the letter during the point of contact's inquiry in the matter and he noticed the reason for the debt letter was because her in-processing packet was submitted in July to DFAS (Fort Meade). The system rejected her packet, and her packet was not resubmitted until 30 days later by DFAS which caused the overpayment to her. She was not aware of any rejection, and her chain of command did not receive anything as well. This is an injustice to her due to no fault of hers. She has attached the transmittal letter to show when the packet was submitted. She also appealed to HRC and received a disapproval notice.

2. A review of the applicant's service records show:

a. Having prior enlisted service in the Regular Army and Army National Guard, DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows she enlisted in the U.S. Army Reserve (USAR) on 11 January 2018.

b. On 14 June 2018, HRC published Orders Number R-06-802035, which ordered the applicant to active duty in an Active Guard/Reserve (AGR) status for 3 years with a reporting date of 25 June 2018, and assigned the applicant to her unit at Fort Totten, NY.

c. On 7 April 2022, HRC published Orders Number R-04-201771, which released the applicant from her Fort Totten, NY unit and assigned the applicant to her Grafton, WV unit with a reporting date of 25 July 2022. The purpose shown on the orders show Human Resources Specialist.

d. On 7 September 2022, DA Form 3508 shows the applicant submitted a request for remission or cancellation of an "overpayment" debt in the amount of \$4,027.20, based on "injustice."

e. On 30 November 2022, the HRC, Chief Incentives and Compensation Branch disapproved the applicant's request for remission or cancellation of indebtedness in the amount of \$4,027.20. The HRC official stated in pertinent part:

(1) The application for remission or cancellation of indebtedness for the applicant in the amount of \$4,027.20 has been reviewed and is disapproved. The review

determined that no grounds exist to remit or cancel the debt based on hardship and/or injustice.

(2) The applicant can apply to the Army Board for Correction of Military Records (ABCMR) for further review if they feel an injustice occurred.

3. In support of her request the applicant provides:

a. DA Form 31 dated 13 May 2022, which shows she was charged for PCS leave from 1 to 12 June 2022 (12 days).

b. DD Form 1351-2 dated 8 July 2022, which shows, she submitted a travel voucher for the period of 1 to 23 June 2022. She traveled with her dependents in her privately owned vehicle from East Meadow, NY to Morgantown, WV.

c. Unit Transmittal Letter dated 22 July 2022, showing she submitted her PCS In-processing Packet.

d. DMPO Fort Meade MFR - Subject: Active Duty In-Processing Checklist, dated 22 July 2022, which shows the items required for In-Processing at the Fort Meade Defense Military Pay Office.

e. DA Form 5960 signed by the applicant on 7 July 2022 and the certifying official on 22 July 2022, which shows the applicant submitted a request to change her Basic Allowance for Housing (BAH) with dependents location.

f. Army Military Pay Office Fort Meade Memorandum - Subject: Notice of Indebtedness, dated 8 August 2022, which shows the applicant's battalion commander was notified that the applicant had an outstanding debt in the amount of \$4,027.20 for overpayment of PCS arrival from 13 June to 15 August 2022.

g. 363rd Military Police Company Memorandum - Subject: Recommendation for Remission/Cancellation Packet - [Applicant], dated 22 August 2022, wherein, the immediate commander stated, cancellation would serve the best interest of the U.S. Government, due to the applicant not being at fault. He recommended the collection be suspended.

h. 336th Military Police Battalion Memorandum - Subject: Recommendation for Remission/Cancellation Packet - [Applicant], dated 30 August 2022, wherein, the battalion commander recommended that the applicant's debt to the U.S. Army be disapproved. His reason for this recommendation was that it was an injustice due to no fault of the applicant. The applicant's in-processing packet was submitted in July and the packet was rejected by the DFAS system, the packet was resubmitted by DFAS in

August which in turn caused the overpayment to the service member.

i. DA Form 2823 dated 8 September 2022, wherein, she stated that she received an email from her previous unit on 12 August 2022 regarding a debt letter that they received on 8 August 2022. The lead military pay technician stated she was overpaid due to late submittal of an in-processing packet. She called the pay technician and discussed her debt letter. The pay technician discovered her packet was not submitted late. The packet was submitted in July to DFAS (Fort Meade) and the system rejected it. The packet was resubmitted back into the system in August by DFAS. She was not aware of an issue or rejection.

j. DFAS Military LES, period covered 1-30 September 2022, which shows her pay, allowances, entitlements, and debts.

k. Army Military Pay Office Fort Meade Memorandum - Subject: [Applicant], dated 25 November 2022, wherein, the Director DMPO, Fort Meade stated, in pertinent part:

(1) The applicant arrived and continued to receive Queens, NY, BAH 11359 after arriving at Grafton, WV, 26354 due to late submittal of the in-processing packet. Due to her Primary Military Occupational Specialty 42A (Human Resources Specialist) and duty as unit S-1 the applicant had the knowledge to know that she was not entitled to New York BAH after arriving at Grafton, WV, as well as the in-processing procedures for Fort Meade Army Military Pay Office including a brief that notifies service members that BAH will change to the new duty location on the day signed in on the Leave Form (DA Form 31).

(2) As the Army Military Pay Office Director, he recommended disapproval based on Army Regulation (AR) 37-104-4 (Military Pay and Allowances Policy) Chapter 3, 3-4.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive review based on law, policy, and regulation. Upon review of the applicant's available military records, the Board found the applicant received an overpayment of basic allowance for housing (BAH) from 13 June 2022 to 15 August 2022 while stationed in West Virginia and collection BAH in New York. The applicant was notified of the overpayment in the amount of \$4027.20 on 8 August 2022. The applicant applied to the U.S. Army Human Resources Command (HRC) for remission or cancellation of her indebtedness based on an injustice. Her application was denied with the Chief, Incentives and Compensation Branch, HRC

finding no grounds existed to remit or cancel the debt based on hardship and/or injustice. The Board considered the entirety of the evidence and was not convinced the applicant acted in good faith. Ultimately, the Board concluded there was no error or injustice and denied her request for reversal of HRC's denial of her remission or cancellation of indebtedness based on an overpayment for BAH.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

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I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. AR 15-185 (ABCMR) states, the ABCMR begins its consideration of each case with the presumption of administrative regularity. It will decide cases based on the evidence of record and it is not an investigative body. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. Paragraph 2-11 states that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

2. AR 37-104-4 (Military Pay and Allowances Policy) provides Department of the Army policies for entitlements and collections of pay and allowances for active duty Soldiers. Chapter 12 (Basic Allowance for Housing), paragraph 12-1 states, BAH was created to provide a member with a monthly allowance for housing. Conditions of entitlements and rates payable for BAH are contained in the Department of Defense Financial Management Regulation, Volume 7A, chapter 26. Paragraph 12-2, states, generally speaking, BAH is payable to members on active duty and will vary according to grade in which serving or appointed for basic pay purposes, dependency status, and the permanent duty station assigned. The BAH is intended to pay only a portion of housing costs. Use DA Form 5960 to start, stop, or change BAH and/or variable housing allowance.

3. AR 600-4 (Remission or Cancellation of Indebtedness) provides policy and instructions for submitting and processing packets for remission or cancellation of indebtedness to the Army. Requests for remission or cancellation of indebtedness must be based on injustice, hardship, or both. In accordance with the authority of Title 10, U.S. Code (USC), section 7837 and/or Title 32, USC section 710(c), the Secretary of the Army may remit or cancel a Soldier's debt to the U.S. Army if such action is in the best interests of the United States.

4. Title 10, USC, section 7837 (Settlement of accounts: remission or cancellation of indebtedness of members) states, the Secretary of the Army may have remitted or cancelled any part of the indebtedness of a person to the United States or any instrumentality of the United States incurred while the person was serving as a member of the Army, whether as a Regular or a Reserve in active status, but only if the Secretary considers such action to be in the best interest of the United States.

//NOTHING FOLLOWS//