

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 October 2024

DOCKET NUMBER: AR20240001899

APPLICANT REQUESTS: remission of debt.

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

- DD Form 149 (Application for Correction of Military Record)
- Leave and Earnings Statement (LES)
- Email Communications
- DA Form 4187 (Personnel Action)

FACTS:

1. The applicant states in April 2022, she was erroneously paid twice. She notes that this payment was annotated as Basic Allowance Housing (BAH) Differential overpayment totaling \$16,068.54. She submitted documentation on 12 May 2022, requesting repayment of the alleged debt in the amount 20 percent of her base pay per pay period. On 27 May 2022, \$1,394.26 was deducted from her pay resulting in a remaining balance of \$14,674.28. On 24 June 2022, she requested to have 100 percent of her pay applied to the debt. On 3 June 2022, the debt increased to \$15,813.92 without any justification, but the remarks section on her LES reflected two separate transactions: 1-14 May 2022 (\$602.70) and 1-30 April 2022 (\$536.94). However, these transactions were also reflected within another area of her LES as suspended. No further actions were noted until November 2022, when she received a debt notification letter. She argues that the debt should never have occurred. Instead of paying her twice, they should have cancelled the two amounts leaving a debt for the remaining balance. She has repeatedly sought the assistance of her finance office and battalion human resources section with zero success. The remaining balance has caused significant stress on both her and her family.

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

a. Having enlisted service in the Army National Guard (ARNG), on 6 April 2019, the applicant was appointed a Reserve commission within the NCARNG.

b. On 27 April 2022, the National Guard Bureau (NGB) issued Special Orders Number IP-10864 announcing the applicant's transfer into the WAARNG, effective 1 July 2021.

c. On 10 May 2022, the WAARNG issued Orders Number 130-002 ordering the applicant to Full-Time National Guard Duty (FTNGD), effective 16 May 2022 for a period of 1 year, 7 months, and 17 days.

d. On 8 March 2023, the WAARNG issued Orders Number 067-004 ordering the applicant to FTNGD, effective 8 March 2023 for a period of 3 years.

3. The applicant provides:

a. An LES reflective of the applicant's pay and entitlements from April – June 2022, February and October 2023.

- April 2022: Basic Pay \$11,916.35; Total Entitlements \$15,879.68
Remarks: Basic Pay Debt Balance \$11,916.35; Original Debt \$11,916.35 (30 July 2021 - 30 September 2021); Pay and Allowance Debt Balance \$4,152.19; Original Debt \$4,152.90 (30 July 2021 - 30 September 2021); Unpaid Debt Balance Total \$16,068.54
- May 2022: Other Credits \$1,394.26; Total Entitlements \$1,394.26
Remarks: Basic Pay Debt Balance \$10,522.09; Original Debt \$11,916.35 (30 July 2021 - 30 September 2021); Pay and Allowance Debt Balance \$4,152.19; Original Debt \$4,152.19 (30 July 2021 - 30 September 2021); Unpaid Debt Balance Total \$14,674.28
- June 2022: No Pay Entitlements – Collection of Overpayment on 27 May 2022
Remarks: Basic Pay Debt Balance \$10,522.09; Original Debt \$11,916.35 (30 July 2021 - 30 September 2021); Pay and Allowance Debt Balance \$4,152.19; Original Debt \$4,152.19 (30 July 2021 - 30 September 2021); Original Debt \$602.70 (1-14 May 2022); Pay and Allowance Debt Balance \$536.94; Original Debt \$536.94 1-30 April 2022; Unpaid Debt Balance Total \$15,813.92
- February 2023: Remarks: Miscellaneous Debt Current Deductions \$300.00; Total Debt Balance \$15,550.82; Debt Initiated February 2023
- October 2023: Remarks: Total Debt balance \$13,150.82

b. Email Communications reflective of communication concerning the applicant's alleged BAH debt.

c. DA Form 4187 reflective of the applicant's submitted request for debt repayment at a rate of 100 percent of her pay and entitlements.

4. On 19 August 2024, the Department of the Army, Deputy Chief of Staff G-1, Financial Management Specialist, Military Pay Branch, provided an advisory opinion recommending that no action be taken on the applicant's request. The applicant was separated from the Army Reserve on 15 May 2022, and the pay system shows a debt of \$15,813.92 at separation. The debt was referred to out of service debts Defense Finance and Accounting Service (DFAS) after separation. A fee for administrative charges and interest were added to the debt of \$36.90, increasing the debt to \$15,850.00. The LES dated 27 May 2022, show payments of \$602.70 for active duty pay 1-14 May 2022, and \$791.56 for 1-30 April 2022. The 3 Jun 2022, LES reflects a collection of \$536.94, for 1-30 April 2022, and \$602.70 for 1-14 May 2022. The LES dated 3 June 2022, show remarks stating debts were suspended and to contact her servicing Finance office. Per above reference, a debt is suspended 30 days for due process before collection can resume. Documents were not provided to show that the applicant contacted the Finance office upon receipt of LES. The applicant's account does not reflect any payments made on this debt after separation. She was on active duty Army as of 16 May 2022. The debt was transferred to her active account on 26 January 2023, in the amount of \$15,850.82. Payments of \$300.00 are being collected monthly on this debt and currently showing a balance due of \$10,150.82.

5. On 21 August 2024, the applicant was provided with a copy of the advisory opinion and afforded 15 days to provide comments.

6. On 12 September 2024, in response, the applicant provides that the majority of her communication with the Finance office occurred telephonically therefore she does not have written documentation associated with these calls. However, she is able to provide email traffic reflective of her repeated attempts to resolve the issue. This communication is further provided in its entirety for the Board members review within the supporting documents. In addition, the applicant provides the following documents:

a. Miscellaneous Document Transmittal – reflective of the applicant's submission of orders and DD Form 114 (Military Pay Order) to her finance office requesting an audit of her pay records for 30 July - 30 September 2021, BAH Correction, Debt Repayment (20 percent per pay period) and release of her base pay and entitlements.

b. Orders Number 51-1215-00008, reflective of the applicant being ordered to FTNGD-Operational Support from 1-29 July 2021.

c. Orders Number 51-2074-00002, reflective of the applicant being ordered the FTNGD-Other Training Duty from 30 July – 30 September 2021.

d. Orders Number 51-1224-00005R reflective of the revocation of Orders Number 51-1224-00005.

e. Marriage Register reflective of the applicant being legally married as recognized by the State of Virginia on 16 December 2018.

f. DA Form 4187, reflective of the applicant's submitted request to initiate debt repayment at a rate of 20 percent per pay period.

g. DA Form 5960, (Basic Allowance for Housing (BAH) Authorization and Dependency Declaration) dated 6 April 2022 reflective of the applicant's submitted request for a change of her BAH entitlement, effective 1 May 2022.

h. Miscellaneous Document Transmittal – reflective of the applicant's submission of a DD Form 114 requesting the expeditious processing of her debt collection at a rate of 100 percent of her pay from 19 May – 10 June 2021.

i. DA Form 4187, reflective of the applicant's submitted request to initiate debt repayment at a rate of 100 percent of her pay and entitlements.

j. LES History, reflective of the applicant having a remaining debt balance of \$15,813.92 as of July 2022.

k. Email communication reflective of the results of the audit performed on the applicant's pay and entitlements. The applicant was advised that the audit did find that she had been overpaid BAH on 27 May 2022. However, the overpayment reduced her debt from the total of \$16,068.54 to \$15,814.92 and refunded some of the taxes charged on her 1 June 2022 LES. A payment of \$106.66 was made.

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 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. The Board reviewed and concurred with The Deputy Chief of Staff G-1 financial management specialist recommending the Board take no action on the applicant's request. The applicant was separated from the U.S. Army Reserve in May 2022 and had a debt of over \$15,000 at the time of separation. The debt, at the time, was referred to an out of service debts department with the Defense Finance and Accounting Service (DFAS). Once the applicant resumed active duty service, the debt was transferred to her active account and began collection from her monthly payments. The Board

determined there was no error or injustice. Based on this the Board concluded relief was not warranted and denied relief.

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. Title 10, USC, section 1552 states, the Secretary concerned may pay, from applicable current appropriations, a claim for the loss of pay, allowances, compensation, emoluments, or other pecuniary benefits, or for the repayment of a fine or forfeiture, if, as a result of correcting a record under this section, the amount is found to be due the claimant on account of his or another's service in the Army.
2. Army Regulation (AR) 15-185 (ABCMR) paragraph 2-9 states the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.
3. AR 600-4 (Remission or Cancellation of Indebtedness) in accordance with the authority of Title 10 USC, section 4837, 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. Indebtedness to the U.S. Army that may not be canceled under Title 10 USC, section 4837 when the debt is incurred while not on active duty or in an active status.

//NOTHING FOLLOWS//