

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 22 November 2024

DOCKET NUMBER: AR20240002304

APPLICANT REQUESTS:

- entitlement to back payment of Temporary Lodging Allowance (TLA)
- a video/telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Email communication
- Department of the Army, Office of the Deputy Chief of Staff G-1 letter, 10 October 2023
- Department of the Army, Office of the Deputy Chief of Staff G-1 letter, 7 November 2023
- Orders Number L179-001, 28 June 2021
- Orders Number L194-005, 13 July 2021
- Orders Number L208-005, 27 July 2021
- NATO Travel Orders
- Orders Number L223-065, 11 August 2021
- SATO Travel Itinerary, 12 August 2021
- DA Form 4187 (Personnel Action), 7 July 2021
- DA Form 31 (Request and Authority for Leave), 21 July 2021
- Hotel Receipts

FACTS:

1. The applicant states he relocated his family to Hawaii while he proceeded on Permanent Change of Station (PCS) orders to Germany on an unaccompanied tour. During his PCS move, he experienced challenges with the housing office on Schofield Barracks, HI. He sought approval of his TLA through the housing office but was advised that he would need to request a waiver through the Secretary of the Army (SECARMY) in order to receive TLA. He sought the assistance of the U.S. Army Human Resources Command (AHRC) with requesting this waiver. AHRC sent him back to housing to proceed with this action; housing advised him to seek the assistance of AHRC. This was an ongoing unresolved issue for over a month prior to departing for Germany.

Finally, AHRC contacted him and his TLA memorandum was finally approved. However, he only received TLA for 13 days. He is still seeking reimbursement for the TLA expenses incurred from 13 August to 20 September 2021.

2. A review of the applicant's service record shows:

a. After serving in the U.S. Army Reserve, on 15 February 2007, the applicant enlisted in the Regular Army.

b. On 11 February 2006, the applicant was legally married.

c. On or about 16 March 2018, the applicant was reassigned to Fort Hood, TX.

d. On 20 November 2018, the applicant recertified his entitlement to Basic Allowance for Housing (with dependents) at the Fort Hood, TX rate. DA Form 5960 (Authorization to Start, Stop or Change Basic Allowance for Quarters and or Variable Housing Allowance) reflects the applicant is married with two dependent children.

e. On 28 June 2021, Headquarters, III Corps Fort Hood issued Orders Number L179-001 announcing the applicant's reassignment from Fort Hood, TX, to Hohenfels, Germany, with a reporting date between 1 and 10 November 2021. The applicant was permitted to relocate his dependents within a relocation period of 6 months prior to departure through 6 months after his PCS date. The applicant was further authorized to request BAH for the location that he was reassigned or for the location where his dependents reside but only if the dependents resided there before he departs his former duty station.

f. On 22 August 2024, the Department of the Army issued Orders Number 9267811 reassigning the applicant to Fort Bliss, TX, effective 10 October 2024. These orders show "dependents traveling."

3. The applicant provides:

a. Email communication reflective of communication concerning the applicant's attempts to receive back payment of TLA. The submitted request notes the requirement for the SECARMY waiver to be backdated to reflect 14 August 2021, when his family arrived in HI.

b. Department of the Army, Office of the Deputy Chief of Staff G-1 letter dated 10 October 2023, reflective of the Compensation and Entitlements Division advising the applicant's congressional representative that his waiver had been approved with an effective date of 21 September 2021. Since there was no documentation provided reflective of the applicant's previous submission prior to 21 September 2021, it would be

improper to grant him a waiver with an effective date prior to this date. The applicant was afforded the opportunity to request relief through this Board if he disagreed with this action.

c. Department of the Army, Office of the Deputy Chief of Staff G-1 letter dated 7 November 2023, reflective of communication provided to the applicant's congressional representative regarding his request for entitlement to TLA back payment. The Compensation and Entitlements Division advised that TLA is a station allowance that is payable when a Soldier is authorized an overseas Cost of Living Allowance (COLA) based on his dependents location in HI until he reports to his duty station in Germany. Since the applicant moved his dependents to HI and preferred to receive pay for that location, he would need to seek the assistance of the finance office at Schofield Barracks or Fort Hood.

d. Orders Number L194-005 dated 13 July 2021, reflective of Orders Number L179-001 being amended to reflect that the applicant's reassignment to Hohenfels, Germany, was an "unaccompanied tour"; movement of his family members to HI at the governments expense is authorized.

e. Orders Number L208-005 dated 27 July 2021, reflective of Orders Number L179-001 being amended to reflect a reporting date between 1-10 September 2021 rather than 1-10 November 2021.

f. NATO Travel Orders reflective of the applicant being permitted to travel from Fort Hood, TX, to Germany.

g. Orders Number L223-065 dated 11 August 2021, reflective of Orders Number L179-001 being amended to reflect an "all others tour"; movement of his dependents to HI was authorized. The applicant was further permitted to travel from HI enroute to Germany.

h. SATO Travel Itinerary dated 12 August 2021, reflective of movement of the applicant and his dependents from Fort Hood, TX, to HI on 13 August 2021.

i. DA Form 4187 dated 7 July 2021, reflective of the authorization for relocation of the applicant's family members to HI due to his reassignment on an unaccompanied tour to Germany.

j. DA Form 31 dated 21 July 2021, reflective of the applicant being on approved leave in HI from 31 July 2021 to 10 September 2021.

k. Hotel Receipts reflective of the applicant's temporary lodging expenses from 13 August 2021 to 10 October 2021.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was 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 petition, and available military records, the Board determined there is sufficient evidence to support the applicant's entitlement to Temporary Lodging Allowance (TLA) based on the applicant's travel and documents provided. The Board defers to DFAS for calculation of payment.
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

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

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by showing the applicant timely submitted the appropriate request/form for TLA pay (at the appropriate rate) for the period 13 August to 20 September 2021 and that his request was approved.

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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. Department of Defense 7000.14-R (Financial Management Regulation) Volume 7A, Chapter 68 (Cost of Living Allowance Outside the Continental U.S. (OCONUS) and Temporary Lodging Allowance (TLA)) provides that TLA is intended to partially pay a Service member for higher than normal expenses incurred by a Service member or dependent while occupying temporary lodging OCONUS. OCONUS TLA is available when it is necessary for a Service member or dependent to occupy temporary lodging upon arrival at, or immediately before leaving, a Permanent Duty Station (PDS) OCONUS, or during other periods as specified in this section. TLA begins the day temporary lodging is first used and ends on the day before permanent Government quarters, private-sector housing, or privatized housing is reoccupied, or when the OCONUS TLA Authority determines TLA is no longer justified.

a. TLA is not payable for any day a Service member is on leave or permissive travel away from the PDS vicinity unless one or more dependents remain in the PDS vicinity to continue to seek private-sector housing or while awaiting assignment to Government quarters. In that case, the number of dependents who continue to occupy temporary lodging determines the rate payable. In either case, postponement of TLA pending return is not authorized. This provision helps ensure that TLA is paid only in connection with the PDS.

b. TLA is calculated in increments of 15 days, except when more than one TLA rate applies within the computation period. If the final lodging period is greater than 15 days, but less than 30 days it may be processed as a single payment.

2. Joint Travel Regulation provides that a Service member may be authorized Temporary Lodging Expenses (TLE) for either 7 or 14 days, depending on whether the new PDS location is in the CONUS. The days may be split between multiple authorized locations and at the Service member's or dependent's discretion. TLE may be temporarily increased for up to 60 days for a PCS move to a new PDS in the CONUS if the location was jointly approved by the Secretaries Concerned because the new PDS in the CONUS is in a Presidentially declared disaster area, is experiencing a sudden increase in the number of Service members assigned there, or is experiencing a housing shortage that prevents Service members from obtaining adequate permanent Government-owned, Government-controlled, privatized, or private-sector rental housing each of which constitutes an unusual, extraordinary, hardship, or emergency circumstance. The Secretaries set the dates when the additional days for TLE are effective.

3. Basic Allowance for Housing (BAH), Overseas Housing Allowance (OHA) and Cost of Living Allowance (COLA) Secretarial Waiver Program provides that generally, a housing allowance and cost of living allowance are paid to Soldiers based on their PDS.

However, when a Soldier's assignment to a PDS or circumstances of that assignment requires the Soldier's family member(s) to reside separately, the DOD FMR permits, under certain circumstances, a Secretarial Waiver authorizing an alternative housing allowance and/or cost of living allowance. The purpose of the waiver program is to "temporarily" stabilize the Soldier's family member(s) when circumstances require the family member to reside separately. The waiver program is to ease the transition of a PCS move to the new PDS in the Continental United States (CONUS) or outside the Continental United States (OCONUS). Every effort should be made to request the Secretarial Waiver prior to departing the old PDS. Requests received after the Soldier has already departed the old PDS will be effective the date the request is received. There is no authority to back date requests.

4. AR 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicant's do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//