

**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2016-043

████████████████████
████████████████

FINAL DECISION

This proceeding was conducted under the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 425. The Chair docketed the case upon receiving the completed application on January 16, 2016, and prepared the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated November 4, 2016, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST AND ALLEGATIONS

The applicant asked the Board to correct his record to show that while he was attending recruit training from September 20 to November 11, 2011, his residence was ██████████ rather than ██████████, so that he will be entitled to the higher basic allowance for housing (BAH) rate in effect for ██████████ for that period.

The applicant alleged that during his second week of training, he and two other recruits were taken aside and told to write down on a form "where our spouses were at that very moment." Because at that moment, his wife was away from home to drop his sister off at a school in ██████████, he wrote that location on the form, not understanding that it would be used to determine his BAH rate during training. Nor was he told that his prior BAH paperwork had been misplaced, and he was not comfortable enough to question what the paperwork was for. However, recently, while reviewing his records and knowing more about BAH, he realized the mistake that was made. In support of his allegations, the applicant submitted the following:

- A print-out of the BAH rate for ██████████ in 2011 shows that for an E-3, the BAH "with dependents" rate was \$1,173.00 per month.
- A BAH form signed by the applicant's spouse on August 30, 2011, shows that she was advised that her spouse was being enlisted as an E-3, that his monthly basic pay would be \$1,729.80, and that his "quarters allowance" would be \$1,122.00.

- A Statement of Financial Obligations/Spouse's Consent form, signed by the applicant on July 13, 2011, shows that he informed the Coast Guard that he had one dependent; that they were residing with parents; that they paid no rent; and that his initial Coast Guard income, including his allowance for quarters, would be \$2,851.80.
- The applicant's wireless telephone bill for the period September 29 to October 28, 2011, was mailed to an address in [REDACTED]. The bill does not show the location of any incoming or outgoing calls.

SUMMARY OF THE RECORD

The applicant enlisted on September 20, 2011, at a recruiting office in [REDACTED]. Birth certificates in his military record show that both he and his wife were born in [REDACTED] County near [REDACTED]. [REDACTED] is also entered on his enlistment documents as the applicant's official "home of record" upon his enlistment.

On October 20, 2011, the Coast Guard issued transfer orders for the applicant to move himself, his spouse, and his household goods to his new unit in [REDACTED], by November 17, 2011. The orders show that between the end of his training on November 11, 2011, and his move, his address while on leave was in [REDACTED]; that he was authorized to ship his household goods from his home of record in [REDACTED] to [REDACTED]; and that "dependent travel" was authorized from [REDACTED] to [REDACTED].

A receipt for a hotel stay in [REDACTED], from November 15 to 18, 2011, which the applicant submitted to the Coast Guard for reimbursement, shows that the applicant's wife provided the hotel with a home address in [REDACTED].

A Travel Voucher that the applicant signed on November 22, 2011, shows that his "dependent's address on receipt of orders" was in [REDACTED] and that the applicant himself had traveled from the training center in [REDACTED] to [REDACTED], pursuant to his transfer.

A supplemental Travel Voucher that the applicant signed on December 19, 2011, shows that his wife had traveled to [REDACTED], from [REDACTED], pursuant to his transfer orders.

VIEWS OF THE COAST GUARD

On April 21, 2016, the Judge Advocate General of the Coast Guard (JAG) submitted an advisory opinion in which he recommended that the Board deny relief.

The JAG stated that members are entitled to BAH pursuant to 37 U.S.C. § 403 as implemented in Chapter 10 of the Joint Federal Travel Regulations (JFTR) and Chapter 3 of the Coast Guard Pay Manual, COMDTINST M7220.29B. The JAG stated that pursuant to section 10416 D.3. of the JFTR, a member's BAH rate while undergoing initial training is based on his or her dependents' location if in the United States.

The JAG stated that the Coast Guard's review of the records has shown that the applicant's BAH during training was properly based on his spouse's location in [REDACTED], and that the applicant has not proven by a preponderance of the evidence that his spouse was not living in [REDACTED] during his training.

In support of the recommendation to deny relief, the JAG submitted documents from the applicant's records, which are summarized above, and an email dated March 11, 2016, from the Coast Guard's Personnel and Pay Center (PPC). In this email, PPC stated that the applicant had submitted a "trouble ticket" regarding this matter on February 10, 2015. The applicant had submitted a copy of his telephone bill, and PPC had advised him that it was insufficient to warrant an adjustment of his BAH. PPC further stated that the applicant's records show that on his original BAH form dated September 23, 2011, he listed [REDACTED], as his spouse's location; that while on leave between training and his first duty station, the applicant provided an address in [REDACTED]; that his initial travel claim submitted in November 2011 showed his spouse's address as [REDACTED] that a lodging receipt he submitted for reimbursement showed his spouse's address as [REDACTED]; and that his supplemental travel claim for his spouse's travel showed that she had traveled from [REDACTED] to join him in [REDACTED]. PPC also stated that there is no evidence supporting the applicant's claim that he had previously completed a BAH form that had been lost.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On April 27, 2016, the Chair sent the applicant a copy of the views of the Coast Guard and invited a response within thirty days. No response was received.

APPLICABLE REGULATIONS

Section 10416 D.3. of the JFTR and Chapter 3.G.5.d. of the Coast Guard Pay Manual state that for new recruits, "[t]he BAH rate for a new accession with dependents is based on the dependent's location if the location is inside the U.S."

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's military record and submissions, the Coast Guard's submissions, and applicable regulations:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552. The application was timely filed.¹

2. The applicant alleged that his receipt of BAH at the rate for [REDACTED] instead of [REDACTED], while he attended recruit training is erroneous and unjust. In considering allegations of error and injustice, the Board begins its analysis by presuming that the disputed information in the applicant's military record is correct as it appears in his record, and

¹ *Detweiler v. Pena*, 38 F.3d 591, 598 (D.C. Cir. 1994) (holding that, under § 205 of the Soldiers' and Sailors' Civil Relief Act of 1940, the BCMR's three-year limitations period under 10 U.S.C. § 1552(b) is tolled during a member's active duty service).

the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.² Absent evidence to the contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties “correctly, lawfully, and in good faith.”³

3. The applicant has not proven by a preponderance of the evidence that he was entitled to BAH at the rate for [REDACTED], instead of [REDACTED] while he attended recruit training in the fall of 2011. Under Section 10416 D.3. of the JFTR and Chapter 3.G.5.d. of the Coast Guard Pay Manual, “[t]he BAH rate for a new accession with dependents is based on the dependent’s location if the location is inside the U.S.” The preponderance of the evidence shows that the applicant’s only dependent at the time, his spouse, was residing in [REDACTED] while he attended training. The record shows that on September 23, 2011, just three days after he enlisted, he wrote an address in [REDACTED] as his dependent’s address on a BAH form, that he and his wife both indicated that her address was in [REDACTED] at the end of his training in November 2011, and that he submitted a travel claim for her travel from [REDACTED] to his new duty station in [REDACTED] in December 2011. The fact that the applicant’s wireless telephone bill was mailed to his home of record in [REDACTED] in October 2011 does not persuade the Board that his spouse was living in [REDACTED] while he attended recruit training.

4. Accordingly, the applicant’s request should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

² 33 C.F.R. § 52.24(b).

³ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

ORDER

The application of [REDACTED] USCG, for correction of his military record is denied.

November 4, 2016

