



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

█
Docket No. 4223-23
Ref: Signature Date

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Dear █

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 26 March 2024. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies. In addition, the Board considered the advisory opinion contained in Commanding Officer, █ of 21 February 2024, which was previously provided to you for comment.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

On 9 March 2012, you transferred from █ and arrived to █ on 4 April 2012 for duty.

In accordance with The Joint Travel Regulations (JTR), the purpose of Dislocation Allowance (DLA) is to partially reimburse a member, with or without a dependent(s), for the expenses incurred in relocating the member's household: On a Permanent Change of Station (PCS), on a housing move ordered for the Gov't's convenience (par. 5446-A), or incident to an evacuation (pars. 6060 and 6115). This allowance is in addition to all other allowances authorized in the JTR and may be paid in advance (37 USC §477).

As used in this Part, "member with dependent(s)" means a member who, on the PCS order effective date, has dependent(s) authorized transportation ICW the PCS.

A member with a dependent(s) is authorized a DLA when the dependent(s): Relocates ICW a PCS. No further DLA authority accrues for that PCS unless authorized under par. 5442-N.

Under 37 USC §477, a member is authorized only one DLA during a fiscal year, *unless* the: The Secretary concerned determines Service exigencies require more than one PCS during the current fiscal year. Member's dependents relocate incident to the member being assigned to Indeterminate Temporary Duty (ITDY) (par. 4920).

Only Service Headquarters can authorize or approve ITDY. A Service member who receives a TDY order that either does not provide for return to the Permanent Duty Station (PDS) *or* does not specify or imply a limit to the period of absence from the PDS is eligible for travel allowances (37 U.S.C. §476(e)(2)). If the ITDY is enroute PCS or specifies TDY pending further orders and a PDS is not named, then the Service member is paid PCS allowances enroute. See Chapter 5 for PCS allowances. The Service member receives the standard travel and transportation allowances in Chapter 2 for TDY while at the ITDY location.

On 24 December 2014, you were issued official change duty orders ██████████ while stationed at ██████████ with an effective date of departure of December 2014. Petitioner's intermediate (01) activity was ██████████ for temporary duty under instruction with an effective date of arrival of 3 January 2015 for approximately 136 days.

On 2 January 2015, you transferred from ██████████, and arrived at ██████████ on 4 January 2015 for duty.

On 21 January 2015, ██████████ notified ██████████ that IRT request for rental car for SNM, SNM PCS orders is hereby modified to auth use of special conveyance (rental car) for the period 14 January 2015 to 18 May 2015. Reimbursement will be authorized per ref c provided a statement is issued certifying the non-availability of government quarters. Please advise member to contact the supporting SATO/transportation office in order to obtain the most cost-effective vehicle.

On 21 January 2015, you transferred from ██████████ and arrived to ██████████ on 23 July 2015 for duty.

On 7 March 2015, Enterprise issued you a rental agreement with a return date of 6 April 2015.

On 18 April 2015, Enterprise issued you a rental agreement with a return date of 17 May 2015.

On 30 April 2015, you were issued official modification to change duty orders (BUPERS order: 3584) while stationed at ██████████ with an effective date of departure of December 2014. Petitioner's intermediate (01) activity was ██████████ for temporary duty under instruction with an effective date of arrival of 3 January 2015. Petitioner's ultimate activity was ██████████ for duty with an effective date of arrival of 22 June 2015 with a projected rotation date (PRD) of June 2018 for approximately 136 days.

On 15 May 2015, you were issued official modification to change duty orders ██████████ while stationed at ██████████ with an effective date of departure of December 2014. Petitioner's intermediate (01) activity was ██████████ for temporary duty under instruction with an effective date of arrival of 3 January 2015 for approximately 164 days. Petitioner's intermediate (02) activity was ██████████ for temporary duty PSI with an effective date of arrival of 16 June 2015. Petitioner's intermediate (03) activity was ██████████ for temporary duty with an effective date of arrival of 2 June 2015. Petitioner's ultimate activity was ██████████ for duty with an effective date of arrival of 22 June 2015 with a PRD of June 2018.

On 29 May 2015, you were issued official modification to change duty orders ██████████ while stationed at ██████████ with an effective date of departure of December 2014. Petitioner's intermediate (01) activity was ██████████ for temporary duty under instruction with an effective date of arrival of 3 January 2015 for approximately 164 days. Petitioner's intermediate (02) activity was ██████████ for temporary duty PSI with an effective date of arrival of 16 June 2015. Petitioner's intermediate (03) activity was ██████████ for temporary duty with an effective date of arrival of 2 June 2015. Petitioner's ultimate activity was ██████████ for duty with an effective date of arrival of 22 June 2015 with a PRD of June 2018.

On 11 June 2015, you were issued official modification to change duty orders ██████████ while stationed at ██████████ with an effective date of departure of December 2014. Petitioner's intermediate (01) activity was ██████████ for temporary duty under instruction with an effective date of arrival of 3 January 2015 for approximately 164 days. Petitioner's intermediate (02) activity was ██████████ for temporary duty PSI with an effective date of arrival of 16 June 2015. Petitioner's intermediate (03) activity was ██████████ for temporary duty with an effective date of arrival of 2 June 2015. Petitioner's ultimate activity was ██████████ for duty with an effective date of arrival of 22 July 2015 with a PRD of August 2018.

On 20 October 2015, Travel Voucher Summary (DO Voucher No. A02911) was issued and paid on 23 October 2015 for the period of 2 January 2015 to 23 July 2015. Advances/Prior Payments: \$33,296.00. Total Entitlement/Total Charged to Account Class: \$45,177.83 (including DLA \$2,319.83). Total Amount Payable/Due Employee: \$11,881.83. Remarks: "Member was authorized rental car from 19 May 2015 to 27 July 2015 according to message ██████████ Member need receipt for 75 or more, unable to make payment for parking and taxi." Furthermore, approved reimbursable expenses: "21 July 2015, Rental car: \$2,120.87."

On 2 July 2018, you transferred from ██████████ and arrived to ██████████ on 31 July 2018 for duty.

On 31 August 2021, you transferred from ██████████ and arrived to ██████████ on 15 September 2021 for duty.

On 5 December 2022, you submitted a supplemental travel claim with the following description: “supplemental travel claim to reimburse 2nd DLA claim in the amount of \$2,319.83 as per JTR page 5a-17, para 05051.89 also member is requesting reimbursement for the remaining balance of rental car in the amount of \$1,901.70 all KSD are attached.”

On 29 December 2022, the Navy made the following comment: “Also member was not assigned ITDY, this is indeterminate TDY which means no ultimate. ITDY have their own orders. Member not on ITDY orders, he is on PCS order does not fall under the DLA for ITDY. Member was already reimbursed the DLA. No more DLA entitlement for this set of orders. Again, member not on ITDY orders, he is on PCS order.”

On 7 March 2023, Navy Personnel Command notified the Honorable ██████████ that, you were requesting reimbursement for a travel claim from 2015 and that the Board for Correction of Naval Records is the adjudicating authority for your request, and you may petition the Board with the enclosed application (DD Form 149), and to include substantial documentation to support your request.

On 31 May 2023, you transferred from ██████████, and arrived at ██████████ on 1 June 2023 for duty.

You requested reimbursement of a rental car and payment of DLA, the Board in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. You assert that you were on ITDY orders and that, “I anticipated that I would have an issue finding accommodations for my family of six with a significantly reduced per diem and I determined that it would be less of a financial burden to be apart from my family instead of them being on per diem with me in ██████████. While attending training (2015), I didn’t receive DLA for my family’s alternate location, the amounts received for per diem reimbursement were consistently incorrect and was only partially reimbursed for my rental vehicle.” However, the Board concluded that the original ██████████ issued on 24 December 2014 was for TDY under instruction for approximately 136 days. On 21 January 2015, ██████████ modified your orders to include authorization for a rental car for the period 14 January 2015 to 18 May 2015. ██████████ were modified on 30 April 2015, adding the PDS of ██████████ a and added authorization for travel of your dependents, and modified further on 15 May 2015 to change the intermediate TDY from 136 days to 164 days. The Board determined that at this point, ██████████ ██████████ became PCS orders. You were paid DLA on 23 October 2015 and were not authorized DLA more than once during that fiscal year. You do not meet the exception to the rule because you were not issued two separate PCS orders, but several modifications to ██████████ and your orders were not ITDY orders. In this connection, the Board substantially concurred with the comments contained in the advisory opinion.

The Board could not determine if you were reimbursed correctly for your rental car. You were authorized a rental car for the period 14 January 2015 to 18 May 2015. You provided receipts for the period of 7 March 2015 to 6 April 2015 and 18 April 2015 to 17 May 2015. Your travel voucher states that message ██████████ authorized a rental car for the period of 19 May 2015 to 21 July 2015, however that message is not present in your case file. Furthermore, you were reimbursed \$2,120.87 for a rental car, however without additional documentation, the Board cannot determine the period it was paid, if the amount is correct, or if you are due additional reimbursement.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

4/2/2024

