

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00126

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

He receive active duty orders for the period 1 Oct through 5 Dec 11.

APPLICANT CONTENDS THAT:

According to the Air Force Instruction (AFI) 36-2910, *Line of Duty (Misconduct) Determination*, he should not have been taken off of active duty orders in Sep 11 while his line of duty determination (LOD) was pending.

In support of his appeal, the applicant provides a copy of AFRC Form 348, *Informal Line of Duty Determination*, AF Form 469, *Duty Limiting Condition Report* and AF Form 938, *Request for Authorization for Active Duty Training/Active Duty Tour*.

The application's complete submission, with attachments, is at Exhibit A.

STATEMENT OF FACTS:

The applicant is currently serving in the Air Force Reserves.

AF Form 469, dated 6 Sep 11 reflects the applicant was restricted from doing repetitive movements of the upper extremities.

On 28 Sep 11, the applicant underwent a Line of Duty Determination (LOD) for a left rotator cuff.

The applicant departed active duty on 30 Sep 11 while his LOD was ongoing.

On 6 Dec 11, his injury was determined to be In Line of Duty (ILOD).

AIR FORCE EVALUATION:

AFMOA/SGHI recommends the applicant receive back for the period 1 Jun 11 through 31 Jun 11 [sic].

The AFMOA/SGHI complete evaluation is at Exhibit B.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

The applicant states there is a mistake in the Air Force evaluation. The Air Force evaluation recommends he receive back pay for the 1 Jun 11 through 31 Jun 11. He is requesting back pay for the period Oct 11 and Nov 11. He was placed on medical orders in Dec 11 through Jan 12.

The applicant's complete response is at Exhibit D.

ADDITIONAL AIR FORCE EVALUATION:

AFMOA/SGHI recommends approval with exception noting a correction to the requested dates. The dates should reflect MPA orders were continued on 1 Oct 11. The first day following the members projected demobilization date, through his requested end date of 5 Dec 11. This change is consistent with the policy, SAF MR Memo 7 Jan 05 HQ USAF Process Procedure Message which states "extension" of the period of mobilization is defined as maintaining personnel on mobilization orders after the established demobilization date specified in the orders. Extension of mobilization orders may be warranted when an airman has a disqualifying medical issue that cannot be resolved prior to expiration of the orders demobilization date. In addition, AFI 36-2910 states an LOD must be completed promptly, as the determination will impact the member's eligibility to benefits, such as military medical care and incapacitation pay. Members should not be separated or retired while an LOD determination is pending.

The complete AFMOA/SGHI complete evaluation with attachment is at Exhibit E.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A corrected copy of the Air Force evaluation was forwarded to the applicant on 16 Aug 12, for review and comment within 30 days. As of this date, no response has been received by this office.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Sufficient relevant evidence has been presented to demonstrate the existence of error or injustice warranting relief. After thoroughly reviewing the evidence of record and the Air Force office of primary responsibility recommendation, we are persuaded that the applicant should have remained on active duty orders until the completion of his LOD. Air Force policy reflects a service member should not be separated or retired while an LOD is pending. Therefore, we recommend his records be corrected as indicated below.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show he was not released from active duty on 30 Sep 11, but was continued on active duty orders effective 1 Oct 11 through 5 Dec 11.

The following members of the Board considered AFBCMR Docket Number BC-2012-00126 in Executive Session on 28 Sep 12, under the provisions of AFI 36-2603:

Chair
Member
Member

All members voted to correct the record as recommended. The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 6 Jan 12, w/atchs.
- Exhibit B. Letter, AFMOA/SGHI, dated 23 Apr 12, w/atrch.
- Exhibit C. Letter, SAF/MRBR, dated 25 Apr 12.
- Exhibit D. Letter, Applicant, dated 5 May 12, w/atrch.
- Exhibit E. Letter, AFMOA/SGHI, dated 2 Aug 10, w/atrch.
- Exhibit F. Letter, AFBCMR, undated, w/atrch.

Chair