

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01337

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

He receive military pay for the period 16 Dec 11 through 11 Jan 12, and the pay for that period of service reflect on his Leave and Earning Statement (LES).

APPLICANT CONTENDS THAT:

He was unfairly denied convalescent leave during the period in question because approval of his request for leave was delayed due his commander being on leave after returning from deployment. AFMOA requested he complete convalescent leave prior to their processing Medical Continuation (MEDCON) Orders for him. However, his leave request was delayed causing him to convalesce in civilian status during this period.

In support of his request, the applicant provides copies of amended orders, a set of orders, and two AF Forms 988, *Leave Request/Authorization*.

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

STATEMENT OF FACTS:

The applicant served as a Technical Sergeant (TSgt) in the Air Force Reserve during the matter under review.

On 31 Dec 10, the applicant mobilized and deployed to Iraq on active duty orders between the period 29 Nov 10 through 5 Aug 11.

On 17 Jan 11, the applicant was medically evacuated from Iraq to Landstuhl, Germany due to persistent chest pain, and returned to CONUS on 30 Jan 11.

On 27 Oct 11, an Informal Line of Duty Determination found his medical condition to be in the line-of-duty.

On 15 Dec 11, the applicant was released from active duty.

In accordance with AFI 36-3212, *Physical Evaluation for Retention, Retirement, and Separation*, Reserve Component members who incur or aggravate an injury, illness or disease in the LOD while on orders for more than 30 days are not involuntarily released from those orders until final disposition of their disability case (condition is materially resolved or referred for processing into the Disability Evaluation System (DES)).

On 12 Jan 12, the applicant was placed on Convalescent Leave from the period 12 Jan 12 through 11 Mar 12 through use of two separate 30-day convalescent leave requests.

The remaining relevant facts pertaining to this application are described in the letter prepared by the Air Force office of primary responsibility which is included at Exhibit C.

AIR FORCE EVALUATION:

ARPC/A1K recommends denial, indicating there is no evidence of an error or injustice. IAW AFI 36-2254, *Reserve Personnel Participation*, Reservists must meet dress and appearance standards, fitness currency, and medical standards to participate in a pay or points gaining activity. Table 2.1 of the AFI 26-2254 lists various types of training members in the selected reserve can perform for pay and points. This training must be approved in advance by the Commander or appointed designee. The applicant has not provided any supporting documentation, such as an AF Form 40A, *Record of Individual In active Duty Training*, or an AF Form 938 *Request and Authorization for Active Duty Training/Active Duty Tour*, to substantiate he was in a military status from 16 Dec 11 through 11 Jan 12. Thus, due to lack of supporting documentation the Command's basis for a disapproval recommendation has been established.

A complete copy of the ARPC/A1K evaluation is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 6 Aug 12 for review and comment within 30 days. As of this date, no response has been received by this office (Exhibit D).

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 an error or injustice. The applicant claims he should have received military pay for the period 16 Dec 11 through 11 Jan 12. After a thorough review of the evidence of record and the applicant's complete submission, we believe a preponderance of evidence supports his claim. In this respect, we note the applicant became ill while on active duty orders for 31 days or more. On 27 Oct 11, an Informal Line of Duty Determination (ILOD) determined his medical condition was in the line-of-duty, yet, for whatever reason, he was released from active duty on 15 Dec 11, only to be returned to active duty on 12 Jan 12 for the purpose of convalescent leave. We note the comments of the Air Force office of primary responsibility (OPR) indicating the lack of timely documentation; however, due to the fact the applicant was placed back into convalescent leave status on 12 Jan 12, we believe there is a reasonable basis to conclude that his line of duty condition had not been resolved and therefore should not have been released from active duty. Therefore, to preclude the possibility of an injustice, we believe it appropriate to resolve any doubt in the applicant's favor and 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 the APPLICANT be corrected to show that on 15 December 2011 he was not released from active duty, but on that date he continued to serve on active duty for the purposes of medical continuation until he was released from active duty on 11 March 2012.

The following members of the Board considered AFBCMR Docket Number BC-2012-01337 in Executive Session on 13 Dec 12, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

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

- Exhibit A. DD Form 149, dated 12 Mar 12, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFRC/A1K, dated 10 Jul 12.
- Exhibit D. Letter, SAF/MRBR, dated 6 Aug 12.

Panel Chair