

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-02149
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

Her Date of Rank (DOR) for the grade of technical sergeant (TSgt, E-6) be changed from 1 Jul 2010 to 29 Mar 2009 to decrease a \$10,073.67 debt.

APPLICANT CONTENDS THAT:

The record should be changed because it was created through an administrative error by the finance office and through no fault of her own.

She had numerous pay problems and her Leave and Earnings Statement (LES) reflected varying amounts of pay. She reported these inconsistencies to finance; however, her pay record was not audited. Her pay gradually increased and when it finally became consistent, she assumed the finance office finally got it right.

This debt has created a financial hardship and she is the only one being punished for this error.

In support of her request, the applicant provides copies of DD Form 2789, *Waiver/Remission of Indebtedness Application*; DD Form 594, *Application and Authorization to Start, Stop, or Change Basic Allowance (BAQ) or Dependency Determination*; Waiver of Debt Denial letter, Appeal Decision, Statement of Service letter, SAF/MRB Remission of Indebtedness letter, numerous electronic communiqués and other voluminous documents in support of her request.

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

STATEMENT OF FACTS:

The applicant is currently serving in the Air National Guard (ANG) in the grade of TSgt.

On 25 Apr 2012, SAF/MRB notified the applicant that a remission of her indebtedness was not in the best interest of the Air Force.

AIR FORCE EVALUATION:

NGB/A1PP recommends denial. A1PP states an examination of the applicant's submitted documentation indicates she was promoted by the ANG to the grade of TSgt per ANGI 36-2502, *Promotion of Airmen*, via Special Order AE-30 dated 30 Jun 2010, with an effective DOR of 1 Jul 2010.

The debt resulted from Basic Allowance for Housing (BAH) and Basic Pay overpayments due to an erroneous rank upgrade to TSgt when she converted from temporary to permanent Active Guard Reserve (AGR) status. The applicant requested a remission of indebtedness for \$10,073.67, through the Air Force Financial Services Center Debts and Remissions Branch. The request for a remission was denied because it was not in the best interest of the Air Force.

The Air Force Financial Services Center Debts and Remissions Branch directed the collection rate of \$350.00 per month for seven months until the member's current expired term of service (ETS) date of 20 Nov 2012. The remaining amount will be collected as an out-of-service debt as determined by the Defense Finance and Accounting System (DFAS). The applicant was informed that if she re-enlists or extends, the re-payment amount schedule would be adjusted to either the new ETS date or a 29 month period at the same monthly rate, whichever is less.

The complete A1PP evaluation, with attachment, is at Exhibit B.

NGB/A1PS finds no error or injustice and concurs with the A1PP advisory opinion.

The complete A1PS evaluation is at Exhibit C.

APPLICANT'S REVIEW OF THE AIR FORCE EVALUATION:

On 16 Jul 2012, copies of the Air Force evaluations were forwarded to the applicant 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. Insufficient relevant evidence has been presented to demonstrate the existence of an injustice. After thoroughly reviewing the evidence of record and the applicant's complete submission, we find no basis to change her DOR to the grade of TSgt to 29 Mar 2009. While the applicant was overpaid due to an administrative error, the evidence does not support that she exercised due diligence in reviewing her leave and earning statement for accuracy or took reasonable actions after the substantial increase in pay. In addition, changing the applicant's DOR in the manner requested is not an appropriate remedy and would provide TIG credit not afforded to other NCO's similarly situated. Therefore, we agree with the opinions and recommendations of the Air Force offices of primary responsibility and adopt their rationale as the basis for our conclusion the applicant has failed to sustain her burden that she was the victim of an injustice. Absent persuasive evidence she was denied rights, to which she was entitled, we find no basis to recommend granting the relief sought in this application.

THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

The following members of the Board considered this application in Executive Session on 5 Nov 2012, under the provisions of AFI 36-2603:

, Panel Chair
, Member
, Member

The following documentary evidence was considered in AFBCMR BC-2012-02149:

- Exhibit A. DD Form 149, dated 25 May 2012, w/atchs.
- Exhibit B. Letter, NGB/A1PP, dated 21 Jun 2012.
- Exhibit C. Letter, NGB/A1PS, dated 2 Jul 2012.
- Exhibit D. Letter, SAF/MRBR, dated 16 Jul 2012.

Panel Chair