

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

JUN 12 1998

IN THE MATTER OF:

DOCKET NUMBER: 96-02013

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

He be reimbursed for a Do-It-Yourself (DITY) move of his household goods (HHG).

APPLICANT CONTENDS THAT:

He was entitled to a separation move of his household and professional goods. He accomplished the move to his home of record (HOR) at his own expense, as documented in his separation orders. Therefore, he believes he should be reimbursed for the move.

In support of his appeal, the applicant provided copies of his separation orders and other documents associated with the matter under review.

Applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS:

On 21 Feb 85, the applicant was appointed a second lieutenant, Reserve of the Air Force (Medical Service Corps), and, on 10 Jun 88 as a captain (Medical Corps). He was voluntarily ordered to extended active duty on 25 Jul 93 in the grade of captain. On 24 Jul 96, the applicant was honorably discharged under the provisions of AFI 36-3207 (Completion of Required Active Service) in the grade of major. He was credited with three years of active duty service.

The relevant facts pertaining to this application are contained in the letter prepared by the appropriate office of the Air

Force. Accordingly, there is no need to recite these facts in this Record of Proceedings.

AIR FORCE EVALUATION:

The Traffic Management Division, HQ USAF/LGTT, reviewed this application and recommended denial. LGTT noted that the applicant elected to move his household goods at his own expense on 22 Nov 95 prior to requesting separation on 15 Feb 96 and receiving official orders on 16 Apr 96.

According to LGTT, the Air Force is governed in matters pertaining to travel and transportation (including personal property shipments) for its members by Volume I, Joint Federal Travel Regulation (JFTR), which is promulgated from Title 37, U.S. Code. The JFTR is a direct implementation of the law enacted by the Congress and has the same force and effect. There is no authority to grant an exception or a waiver to any provision of the Joint Federal Travel Regulation.

a. Paragraph U5305-A, JFTR provides in part, that a member is entitled to transportation of household goods at Government expense when the member is ordered to perform a permanent change of station (PCS).

b. Paragraph U5320-D, JFTR provides in part, that transportation of household goods ordinarily will be made through a shipping or transportation officer. It further states that under certain conditions a member who personally arranges for transportation of household goods by any means, is entitled to reimbursement of such costs not to exceed the cost which would have been incurred by the government had transportation been made by a shipping or transportation officer, or reimbursement of the actual costs incurred if a transportation officer was not available or if the member was advised to arrange for his own move.

c. Paragraph U-5320-E, JFTR provides, in part, that if authorized in advance by the official designated for that purpose by the Service concerned (for Air Force this is the Traffic Management Officer), a member will be paid an amount equal to 80 percent of what it would have cost the Government to ship the household goods actually moved by the DITY method, not to exceed his or her authorized weight allowance, less the cost incurred by the Government for the DITY move. The Secretary concerned or the Secretary's designated representative may approve "after the fact" DITY moves on a case-by-case basis.

d. Paragraph U-5330-G, JFTR provides, in part, for shipment of household goods in advance of orders, however, the Comptroller General has ruled that general information furnished to the member concerning issuance of orders before the determination is

made to actually issue the orders (such as time of eventual release from active duty, time of expiration of term of service, date of eligibility for retirement, date of expected rotation from overseas duty) may not be considered as advice that the orders will be issued (52 Com. Gen. 769 (1973)).

LGTT indicated that their review of the circumstances surrounding the applicant's case revealed that he was aware that for reimbursement of a move at personal expense or to receive a cash incentive for a DITY move he must have proper authorization in the form of orders prior to completion of the move. For personal reasons he decided to relocate part of his family and complete a personal move at his own expense five months prior to the orders being issued. Upon receipt of his orders on 16 Apr 96, the applicant sent a letter to the Travis Traffic Management Officer on 19 Apr 96 requesting reimbursement or for approval of an after-the-fact DITY move. They could not authorize reimbursement because his receipts were dated 22 and 25 Nov 95 (move performed prior to the 16 Apr 96 orders). Also, the TMO could not approve an after-the-fact DITY move because the applicant's personal move did not meet the requirements of JFTR, Vol 1, U5320-E. The applicant's documents were forwarded to Headquarters Air Mobility Command for further review and again it was determined that he did not qualify for reimbursement or an after-the-fact DITY payment because he did not possess valid authority (special orders) prior to accomplishing the move.

LGTT stated that a check with the Chief, Military Personnel Flight, 60th Mission Support Squadron showed that the applicant did not apply for separation until 15 Feb 96 (almost three months after he made his own move), according to the Air Force Form 780 (Officer Separation Actions). It should also be noted that according to Air Force Instruction 36-3207, Chapter 2, paragraph 2.9, the applicant could have requested separation orders within and up to one year prior to the date of his active duty service commitment (22 Jul 96). On 30 May 96, he used his separation orders (#AB0519, dtd 16 Apr 96) to arrange, through the Travis Traffic Management Office, shipment of 703 pounds of professional goods from the David Grant Medical Center, Travis AFB, California, to Englewood, Colorado.

In conclusion, LGTT indicated that the Travis TMO properly responded to the applicant's letter informing him that orders were required to be eligible for shipment of household goods or reimbursement of a personally performed move, as well as that prior authorization was required for him to make a DITY move and receive a cash incentive. These provisions apply to all DOD members and in this case we find no justification of an injustice occurring.

A complete copy of the LGTT evaluation is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

In his response, the applicant indicated that he strongly believes that an injustice has been done in that by denying even reimbursement of his own expenses, the Air Force has withheld a contracted right due to him as an officer of the armed forces of the United States. By not reimbursing him whatsoever, they are, in fact, taking money or benefits from him after his honorable service to the military.

Applicant indicated that he would prefer that the board choose to approve a DITY move to reimburse him a cash incentive equal to 80 percent of what it would have cost the government to ship his HHG. If this is not agreeable to the board, he would settle for a reimbursement for the actual costs incurred without receiving any additional cash incentive.

Applicant's complete response is at Exhibit E.

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 probable injustice. While it appears that the applicant completed a DITY move of his household goods at his own expense prior to the issuance of his orders, we noted that he could have requested separation orders up to one year prior to the date of his active duty commitment. Furthermore, had he received his orders prior to the move, he would have been authorized reimbursement for his expenses. In view of the above, we believe it is in the interest of justice to afford the applicant the requested relief. Accordingly, we recommend that 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 that he received prior authorization to perform a Do-It-Yourself (DITY); he received proper DITY move counseling; he completed a DD Form 2278, DITY Counseling Checklist, prior to the movement of his personal property from Travis Air Force Base, California, to Englewood, Colorado; and, his incentive was based on the transportation rates in effect in November 1995.

The following members of the Board considered this application in Executive Session on 27 Jan 98, under the provisions of AFI 36-2603 :

Ms. Charlene M. Bradley, Panel Chair
Mr. Richard A. Peterson, Member
Mr. Henry Romo, Jr., Member

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

Exhibit A. DD Form 149, dated 10 Jun 96, w/atchs.
Exhibit B. Applicant's Master Personnel Records.
Exhibit C. Letter, HQ USAF/LGTT, dated 9 Aug 96, w/atchs.
Exhibit D. Letter, SAF/MIBR, dated 3 Sep 96.
Exhibit E. Letter, applicant, dated 6 Sep 96.


CHARLENE M. BRADLEY
Panel Chair



DEPARTMENT OF THE AIR FORCE

WASHINGTON, DC

JUN 12 1998

Office of the Assistant Secretary

AFBCMR 96-02013

MEMORANDUM FOR THE CHIEF OF STAFF

Having received and considered the recommendation of the Air Force Board for Correction of Military Records and under the authority of Section 1552, Title 10, United States Code (70A Stat 116), it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED], be corrected to show that he received prior authorization to perform a Do-It-Yourself (DITY); he received proper DITY move counseling; he completed a DD Form 2278, DITY Counseling Checklist, prior to the movement of his personal property from [REDACTED] Air Force Base, [REDACTED] to [REDACTED], and, his incentive was based on the transportation rates in effect in November 1995.


JOE G. LINEBERGER
Director

Air Force Review Boards Agency