

DATE: March 29, 2019

In Re:)
 [REDACTED]) Claims Case No. 2018-WV-122005.2
)
Claimant)

**CLAIMS APPEALS BOARD
RECONSIDERATION DECISION**

DIGEST

When an employee is furnished with documentation from her employing agency regarding her entitlements, she has a duty to review such documentation to verify she is receiving her proper entitlements.

DECISION

An employee of the U.S. Army requests reconsideration of the appeal decision of the Defense Office of Hearings and Appeals (DOHA) in DOHA Claim No. 2018-WV-122005, dated January 23, 2019.

Background

The employee was in receipt of retention incentive pay. On May 9, 2016, a *Notification of Personnel Action* (SF-50) was issued granting her a substantial salary increase. On May 23, 2016, an SF-50 was issued terminating the employee’s retention incentive pay effective April 30, 2016. However, due to administrative error the employee continued to receive retention incentive pay through June 24, 2017. As a result, the employee was overpaid \$46,270.80 from the pay period ending (PPE) May 14, 2016, through the June 24, 2017.

In the appeal decision, the DOHA adjudicator sustained the Defense Finance and Accounting Service’s decision to deny waiver of the debt. The adjudicator found that the employee should have questioned her receipt of the retention incentive pay given she received an SF-50 that clearly reflected the termination of this entitlement effective April 30, 2016. The

adjudicator noted the absence of a retention incentive contract or other official documentation regarding the retention incentive aside from the SF-50 dated May 23, 2016, terminating the entitlement.

In her request for reconsideration, the employee describes the high tempo and stress of her work environment. She explains that when she was not on shift she simply was attempting to recover for the next shift. She states that she was never informed by email or verbally about the termination of retention incentive pay. She states that she never received the SF-50 issued on May 23, 2016, nor an email alerting her to the issuance of it. Therefore, she had no reason to believe that her retention incentive pay would expire.

Discussion

Under 5 U.S.C. § 5584, we have the authority to waive collection of erroneous payments of salary an employee receives if collection would be against equity and good conscience and not in the best interests of the United States, provided there is no indication of fraud, misrepresentation, fault or lack of good faith on the part of the employee. We have consistently held that if an employee is furnished with documentation or information, which, if reviewed, would cause a reasonable person to be aware or suspect the existence of an error, but she fails to review such documents or otherwise fails to take corrective action, waiver will generally be denied. *See* DOHA Claims Case No. 2015-WV-050101.2 (August 26, 2015); and DOHA Claims Case No. 2011-WV-121602.2 (March 15, 2012).

In this case, the employee states that if she had received an email notifying her about the existence of the SF-50 issued on May 23, 2016, she would have assumed it related to her pay increase, not the termination of her retention incentive. Even if the employee did not receive notice by email of the SF-50 terminating her retention incentive, the record clearly reflects that it was posted to her electronic Official Personnel File (e-OPF) on May 23, 2016. We cannot stress enough the importance of a careful review by each employee of the pay data provided by the employing agency, including personnel actions documented to an employee's e-OPF. This pay data is specifically provided to the employee in order that they can verify the accuracy of their salary. Since the employee had access to her e-OPF, she was on notice as of May 23, 2016, that she was not entitled to retention incentive pay effective April 30, 2016. Under the circumstances, waiver is not appropriate.

Conclusion

The employee's request for relief is denied, and we affirm the January 23, 2019, appeal decision to deny waiver in the amount of \$46,270.80. In accordance with Department of Defense Instruction 1340.23 ¶ E8.15, this is the final administrative action of the Department of Defense in this matter.

SIGNED: Catherine M. Engstrom

Catherine M. Engstrom
Chairman, Claims Appeals Board

SIGNED: Charles C. Hale

Charles C. Hale
Member, Claims Appeals Board

SIGNED: Ray T. Blank, Jr.

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Member, Claims Appeals Board