

November 17, 1998

In Re:

[Redacted]

Claimant

)

Claims Case No. 98090309

CLAIMS APPEALS BOARD DECISION

DIGEST

A member's record was corrected in a way which entitled him to additional pay and allowances. He is not entitled to interest on the amount thus owed to him in the absence of a provision in the applicable statute specifically providing for payment of interest.

DECISION

This is in response to an appeal of DOHA Settlement Certificate, DOHA Claim No. 98060813, July 27, 1998, which denied a member's claim for interest on pay and allowances retroactively paid to him pursuant to correction of his records by the Air Force Board for Correction of Military Records (AFBCMR).

Background

The member enlisted in the Air Force Reserve for a term of six years from February 24, 1987, through February 23, 1993. He was ordered to extended active duty from February 11, 1992, through February 10, 1993. However, he was separated on October 9, 1992, and was held in confinement until November 1992. In November 1997, the AFBCMR corrected the member's record under 10 U.S.C. § 1552 to show that he was entitled to pay and allowances from February 11 through October 9, 1992. The Defense Finance and Accounting Service calculated that he was due a net amount of \$5,996.51 due to the correction of his record. In the Settlement Certificate we denied his claim for interest on that amount. He appeals that denial and now claims compensatory damages as well.

Discussion

Interest on an amount claimed from the government is payable only when the statute under which the claim is made specifically provides for the payment of interest. This is a rule of long standing. *See United States ex rel. Angarica v. Bayard* 127 U.S. 251, 260 (1888); *Sergeant First Class James L. Dunlap, U. S. Army, Retired*, B-224946, Sept. 25, 1987. In the present situation, payment of the member's claim was made pursuant to 10 U.S.C. § 1552; as we stated in the Settlement Certificate, that statute does not provide for the payment of interest. The member states that his claim is based on 10 U.S.C. § 12315(b), which deals with a reservist's entitlement to pay and allowances. That statute, like 10 U.S.C. § 1552, does not provide for the payment of interest.

The member included a claim for compensatory damages with his appeal. While our procedures do not allow a claimant to add a new claim at the appeal level, we call the member's attention to *Lieutenant Colonel Carla J. Montisano, AUS (Retired)*, B-196688, Feb. 15, 1980 (copy enclosed), which denied a claim for damages incident to a record correction.

Conclusion

We affirm the Settlement.

/s/

Michael D. Hipple

Chairman, Claims Appeals Board

/s/

Christine M. Kopocis

Member, Claims Appeals Board

/s/

Jean E. Smallin

Member, Claims Appeals Board