

**DECISION****THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548**

26477

**FILE:** B-211380**DATE:** October 12, 1983**MATTER OF:** Ensign John Kiers, USN

**DIGEST:** A naval officer or enlisted member above grade E-6 who is "without dependents" is entitled to a basic allowance for quarters while assigned to a ship at its homeport if he elects not to occupy available Government quarters. The member continues to receive the allowance for the first 90 days the ship is deployed. He is also entitled to receive the allowance for 90 days after transfer to a deployed vessel if the homeport of that ship is the same as the homeport of his previous assignment and he was receiving the allowance at the homeport at the time of the transfer.

Is Ensign John Kiers, USN, entitled to a basic allowance for quarters for the period subsequent to his assignment to the USS Santa Barbara while the ship was on an extended deployment?<sup>1</sup> We conclude that Ensign Kiers is entitled to a basic allowance for quarters for a period of 90 days following the day he reported to the ship.

#### Facts

Pursuant to permanent change-of-station orders, Ensign Kiers (grade O-1) was transferred from USS Davis, which was in its homeport of Charleston, South Carolina, to the USS Santa Barbara on January 29, 1983. On that day, the ship was in the 67th day of a 204-day deployment from its homeport of Charleston, South Carolina. Prior to reporting, Ensign Kiers was receiving a basic allowance for quarters at the "without-dependents" rate. Because the disbursing officer on the USS Santa Barbara is uncertain of the entitlement of Ensign Kiers to the allowance in view of 37 U.S.C. § 403(c) (Supp. IV 1980),

<sup>1</sup> R. F. Gonzalez, Disbursing Officer on the USS Santa Barbara (AE-28), requested a decision in this case. The request was cleared through the Department of Defense Military Pay and Allowance Committee and assigned submission number DO-N-1417.

026889  
122584

which prohibits the payment of basic allowance for quarters to persons on sea duty, no payment has been made to Ensign Kiers pending our decision in this case.

The payment of a BAQ is governed by 37 U.S.C. § 403 which provides:

"(b) \* \* \* However, subject to the provisions of subsection (j) of this section, a member without dependents who is in a pay grade above pay grade E-6 and who is assigned to quarters of the United States \* \* \* may elect not to occupy those quarters and instead to receive the basic allowance for quarters prescribed for his pay grade by this section.

\* \* \* \* \*

"(2) A member of a uniformed service without dependents who is in a pay grade below pay grade E-7 is not entitled to a basic allowance for quarters while he is on sea duty. A member of a uniformed service without dependents who is in a pay grade above E-6 and who is on sea duty is not entitled to a basic allowance for quarters while the unit to which he is assigned is deployed for a period in excess of 90 days.

"(3) For the purposes of this subsection, duty for a period of less than three months is not considered to be field duty or sea duty."

The phrase "while the unit to which he is assigned is deployed for a period in excess of 90 days" is defined as applying to periods of time commencing on the 91st day the unit to which the member is assigned is deployed. Section 401(f) of Executive Order 11157, as amended by Executive Order 12274, January 16, 1981, 43 F.R. 5855.

Under applicable regulations a member without dependents on sea duty for 3 months is entitled to a

basic allowance if he is an officer or is enlisted in pay grades E-7 or higher while aboard ship in homeport and elects not to occupy available quarters. The entitlement ceases after the 90th day the ship is deployed. Department of Defense Military Pay and Allowances Entitlements Manual, Table 3-2-3, Rule 8, change 71, December 20, 1982 (formerly Rule 9).

The law and the regulations contemplate that an officer or enlisted member in pay grade E-7 or higher who is "without dependents" may elect not to occupy available quarters on the ship while it is in homeport and receive basic allowance for quarters at the without-dependents rate. The applicable regulations clearly provide that he continues to be entitled to a basic allowance for quarters after he is deployed with his ship until the ship has been deployed for 90 days.

In Ensign Kiers' case, he had elected not to occupy quarters on his former ship while it was in homeport and was receiving basic allowance for quarters. Upon his transfer to the USS Santa Barbara he necessarily had to occupy quarters on the vessel since it was in the 67th day of a 204-day deployment.

Ordinarily, in this situation the member's entitlement to a basic allowance for quarters would terminate since he has been assigned to Government quarters and he would have no alternative but to occupy them. However, the permanent station of a member assigned to a ship is the ship, but it also includes the homeport of the vessel. See Executive Order 11157, as amended, and 48 Comp. Gen. 40 (1968).

The homeport of both his former and new assignments is the same and since the homeport is included in the definition of permanent station for a member assigned to a ship, Ensign Kiers' situation must be viewed as not involving a permanent change of station for the purpose of entitlement to basic allowance for quarters.

Thus, since Ensign Kiers was receiving basic allowance for quarters at the homeport of the ship to which he was assigned, he may continue to receive the allowance for 90 days after he reported to it. We would like

B-211380

to emphasize that this result is only occasioned by the fact that both units involved had the same homeport. If that were not so he would be required to qualify for the allowance at the new homeport before continued entitlement for 90 days could be allowed. The question is answered accordingly.

*for* *Milton J. Fowler*  
Comptroller General  
of the United States