

Troops Sacked by Don't Ask, Don't Tell Get Separation Pay

By Aaron Kase

Former service members who were honorably discharged from the military under the “Don’t Ask, Don’t Tell” policy are now eligible for full separation pay, thanks to a recent court settlement.

The American Civil Liberties Union had instigated a class action lawsuit against the government for troops who only received half the separation pay they would have otherwise been eligible for because they were discharged under the discriminatory former policy.

Under the settlement, \$2.4 million will be available for around 181 former military members “who at any time from November 10, 2004 through the present were involuntarily separated from the military and were... entitled to full separation pay, but were deemed to be not fully qualified for retention and denied reenlistment or continuation because of homosexuality and therefore had their separation pay reduced by one-half.”

The lead plaintiff in the suit was Richard Collins, a former Air Force sergeant who had to leave behind a nine-year career after co-workers spotted him kissing his boyfriend.

“Don’t Ask, Don’t Tell” was in place between 1993 and 2011 and banned gay service members from openly serving in the military. The policy ended on September 20, 2011 and LGBT troops no longer need to fear being involuntarily discharged because of their orientation.

Evolving Attitudes

“There are three ways to leave the military,” explains Lisa M. Windsor, a military law attorney with the firm Tully Rinckey and a former Army colonel. “You can retire, in which case you get retirement pay. You can voluntarily leave, in which case you get nothing, or you can involuntarily be separated, in which case you might be eligible for severance pay.”

Ordinarily, troops who are involuntarily separated with an honorable discharge and who have served for at least six years get separation pay of an amount based on their rank and time served.

However, separation pay is not automatic for honorable discharges and can be denied or altered if service members are not considered to be in good standing at the time of their departure, such as those who failed drug or alcohol rehabilitation. “At that time, homosexuality was viewed as being one of those conditions that placed you not in good standing,” Windsor says. Consequently, victims of DADT typically saw their payment lopped in half.

The settlement, as well as the end of Don’t Ask, Don’t Tell itself, comes during a time when attitudes about LGBT Americans have been dramatically evolving, as more states allow same-sex marriage and more lawmakers come out against bigotry. “All of it has to do

with just an overall change in how we view homosexuality,” says Windsor. “Back then it was viewed as incompatible with military service. Obviously that’s not how we think of it today.”

The Collins settlement is one more step in the march for equality, albeit a retroactive one. “I think it’s a great decision,” the attorney says. “There are definitely people who got separated under Don’t Ask, Don’t Tell who had a lot of years in service so they deserved to be compensated for that.”