

Effective December 1, 2008, Ms. Hale was awarded a ten percent disability rating by the Department of Veterans Affairs, which apparently excluded consideration of her physical conditions that arose as a result of her service in Afghanistan because of the nature of her discharge. Compl. at 3 and unnumbered attachment. She separately received a 100 percent disability rating by the Social Security Administration. Compl. at 3 and unnumbered attachment.

On November 29, 2010, Ms. Hale filed an action in this court seeking changes in her military record, claiming that a promotion to sergeant should have been confirmed and that she should be awarded back pay and reclassification of her discharge to honorable. Compl. at 3. Ms. Hale also seeks full medical disability benefits. *Id.*

ANALYSIS

A. Jurisdiction

The court has subject matter jurisdiction over Ms. Hale's claims for back pay and medical disability payments. *See Verbeck v. United States*, 89 Fed. Cl. 47, 59-61 (2009) (upholding jurisdiction under the Tucker Act, 28 U.S.C. § 1491(a), and the Military Pay Act, 37 U.S.C. § 204, over claims for military pay and allowances, and under the Tucker Act and 10 U.S.C. § 1203 over claims for military disability separation pay).

The Tucker Act authorizes the court to "remand appropriate matters to any administrative or executive body or official with such direction as it may deem proper and just." 28 U.S.C. § 1491(a)(2); *see also* Rule 52.2(a) of the Rules of the Court of Federal Claims ("RCFC"). Where a claim had been before a military board and the evidentiary record is inadequate or the military board's decision failed to account for certain evidence when rendering its decision, the proper course of action is to remand to the agency for additional investigation or explanation, not to conduct a de novo proceeding. *See Albino v. United States*, 93 Fed. Cl. 405, 409 (2010) ("To the extent that evidence may not have been—or, in fact, was not—considered below by the ABCMR, the 'proper course . . . is to remand to the agency for additional investigation or explanation.'") (quoting *Florida Power & Light Co. v. Lorion*, 470 U.S. 729, 744 (1985)); *see also Riser v. United States*, 93 Fed. Cl. 212, 218 & n.5 (2010) (ruling to the same effect).

B. Motion to Remand

In the motion before the court, the government represents that Ms. Hale has, in this court, indirectly raised procedural issues that were not previously considered by the ABCMR and which may affect the outcome of her claims. Def.'s Mot. for Remand at 2-3. As a consequence, the government requests that the court remand this case to the ABCMR to enable that entity to develop an expanded record, make new findings, and render a fresh adjudication of Ms. Hale's claims. *Id.*

CONCLUSION

The government's motion for voluntary remand is GRANTED. Pursuant to RCFC 52.2(a), this case is remanded to the Army Board of Corrections for Military Records, for a period of six months. *See* RCFC 52.2(b)(1)(B). The Board shall determine (1) whether