

APPEAL PANEL DECISION FORM

I. CLAIMANT AND CLAIM INFORMATION

Claimant Name	Last/Name of Business ██████████	First ██████	Middle
Claimant ID	██████████	Claim ID	██████████
Claim Type	Business Economic Loss		
Law Firm	██		

II. DECISION

Denial Upheld

Denial Overturned

III. PRIMARY BASIS FOR PANELIST DECISION

Please select the primary basis for your decision. You may also write a comment describing the basis for your decision.

Claim should have been excluded.

Claim should have been denied.

Claim should not have been excluded.

Claim should not have been denied.

No error.

Comment (optional):

See Separate Decision

██████████
Claim ID ██████████

██████████, a commercial landlord, appeals the decision of the Settlement Program denying his BEL claim due to a failure to establish causation under the Exhibit 4B formula in the Settlement Agreement. In this case, Accounting Review made adjustments to the months in which revenue was considered as received. These adjustments were made based on details provided by the claimant regarding lease terms and transaction information and resulted in the Claims Administrator allocating rent payments to months other than when it was received.

██████████ alleges it was improper for the Accountants to move revenue from the month it was received since the entries at issue did not constitute an "error" as defined under Policy 495. According to claimant, the correction of "errors" ,as delineated in 495, is the only basis for the Settlement Program to unilaterally adjust revenues as they were in this case. Claimant further avers that, had the revenue entries not been altered, causation under 4B would have been satisfied.

BP counters that 495 provides justification for the measures taken by the accounting vendors to correct the mismatch of revenue and expenses in this case. This appeal presents some vexing issues with support for the arguments of both sides to be found within the text of 495.

BP relies on the following language in 495: "Contemporaneous P and Ls submitted by the claimant will be restated if, in analyzing and processing a claim, the ██████████ vendors identify either an error (as previously defined) or a mismatch of revenue and variable expenses which can be explained and supported by appropriate documentation. If matching issues remain after such restatements, revenue and/or variable expenses will be allocated as per one of the methodologies set forth in Attachments B through H".

Claimant is correct that the entry of rental income in what is arguably the wrong month does not constitute an "error" as that term is defined in 495. However, the recitation in the Policy that P and Ls may be restated if the Accountants identify either an error ,OR a mismatch of revenues and expenses, provides the Program the discretion to move revenue where warranted even outside the scope of an "error". There are numerous statements of support in the text of 495 for the exercise of the Accountant's discretion and this discretion was warranted in this case.

It is true, as claimant suggests, that several panel decisions have recognized the Claims Administrator is not required to make accounting adjustments outside the scope of an error. Nevertheless , there is still a sufficient basis within the body of 495 to support the Accounting Team's discretion to move revenue where it is warranted.

Accordingly, this appeal is dismissed and the Settlement Program's decision dismissing this claim is affirmed.