

**DECISION**

11216 PLM-II  
THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

FILE: B-193946

DATE: August 24, 1979

MATTER OF: Larry Lane

*[Claim by Alleged Son for Unpaid Compensation Due Deceased Federal Employee]*

DIGEST: Claim by deceased Federal employee's alleged son for unpaid compensation due father may not be allowed as the evidence presented is not sufficient to show that the claimant is the son of the deceased employee. Therefore, it is unnecessary to consider the legal issues as to claimant's entitlement under 5 U.S.C. § 5582 that would be presented if there was sufficient proof of paternity.

AGL  
91495

The Accounting and Finance Officer, Defense Logistics Agency, Defense Depot Memphis, requests an advance decision as to whether a part of the unpaid pay and allowances of a deceased employee who had not designated a beneficiary and did not leave a surviving spouse may be paid to an alleged son in the circumstances described. The answer is no.

Hugh E. Horton, Jr., while an employee of Defense Depot Memphis, died December 31, 1977. He had not designated a beneficiary and did not leave a surviving spouse. Claims were submitted for unpaid compensation due Mr. Horton by Alder M. Williams on behalf of two minor children of Mr. Horton, Sherri E. Horton and Terri E. Horton. Another claim was filed by Larry Lane claiming to be the son of Mr. Horton. Each of these claims listed as children of Mr. Horton the following: Sherri Estes Horton, Terri Estes Horton, Larry Lane and Reginal Stevenson. One half of the unpaid compensation was paid to Mrs. Williams on behalf of Sherri and Terri Horton. No claim has been received from Reginal Stevenson whose address and location is apparently unknown. Mr. Lane's claim as the son of Hugh E. Horton is supported by a settlement sheet of Globe Life Center reflecting Larry Lane as life insurance beneficiary of Hugh E. Horton, Jr., but not naming him as Mr. Horton's son. Mr. Lane has also provided a copy of an Army order authorizing emergency leave to him due to death of his father. There is also some indication that Mr. Lane lived in Mr. Horton's home as a child. Mr. Lane's birth certificate does not list Mr. Horton as his father. Mr. Lane states that neither his mother nor Mr. Horton ever had his name changed.

~~000239~~

B-193946

The controlling statute, 5 U.S.C. § 5582(b) (1976), provides that money due an employee at the time of death shall be paid in the following order of precedence:

"First, to the beneficiary or beneficiaries designated by the employee in a writing received in the employing agency before his death.

"Second, if there is no designated beneficiary, to the widow or widower of the employee.

"Third, if none of the above, to the child or children of the employee and descendants of deceased children by representation.

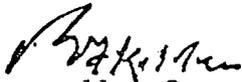
"Fourth, if none of the above, to the parents of the employee or the survivor of them.

"Fifth, if none of the above, to the duly appointed legal representative of the estate of the employee.

"Sixth, if none of the above, to the person or persons entitled under the laws of the domicile of the employee at the time of his death."

The evidence submitted by Mr. Lane or on his behalf is not sufficient to show paternity. There is no showing either by direct or other probative evidence that Mr. Horton acknowledged Mr. Lane as his son. This makes it unnecessary for us to consider the legal issues as to the claimant's entitlement under 5 U.S.C. 5582, that would be presented if there were sufficient proof of paternity. See B-184461, July 8, 1977. Compare 54 Comp. Gen. 858 (1975).

Accordingly, the voucher may not be certified for payment and it is being retained in our Office.

  
Deputy Comptroller General  
of the United States