



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Bernice Webb Becks - Claim for Unpaid Compensation  
File: B-227483  
Date: October 23, 1987

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### DIGEST

A claimant who asserts that she is the common-law wife of a deceased employee may not collect his unpaid compensation since no common-law marriage has been established and it is unclear whether the deceased employee believed himself to be or held himself out as married.

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### DECISION

This action is in response to a request for reconsideration by Bernice Webb Becks (hereafter referred to as Ms. Becks), of our Claims Group's January 27, 1987, disallowance of her claim for unpaid compensation due Mr. Kellie R. Becks.<sup>1/</sup> It is our view that the marriage claimed by Ms. Becks to Mr. Becks is too uncertain to allow payment of the claim, and the Claims Group's disallowance is affirmed.

Mr. Becks, an employee of the Internal Revenue Service, died on May 12, 1984. Ms. Becks filed a claim for unpaid compensation due Mr. Becks at the time of his death. She and her attorney assert that she and Mr. Becks were married at common law on August 8, 1976, in Texas, and thus she is entitled to receive the unpaid compensation. Our Claims Group disallowed the settlement, noting that although the State of Texas does recognize common-law marriages, there are a number of discrepancies in the record and thus the claim was too uncertain to allow payment.

Authority for settlement of accounts of a deceased employee is found at 5 U.S.C. §§ 5581-5583. Section 5582 provides

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<sup>1/</sup> The claimant is also referred to in various documents as Berneice Booker (maiden name) and Bernice B. Webb (apparently a former married name). It is unclear at what point, if any, her name was formally changed to Bernice Becks.

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that unpaid compensation may be paid in order of precedence to (1) a designated beneficiary, (2) the widow or widower, (3) a child or children of the deceased, (4) the parents, (5) a duly appointed legal representative of the estate, or (6) persons entitled under the laws of the domicile of the deceased.

The record indicates that Mr. Becks made no designation of beneficiary for his unpaid compensation. Thus, if Ms. Becks can establish that she is legally the widow of Mr. Becks, she may be paid unpaid compensation owed Mr. Becks. If she cannot, it appears that payment might be made to Mr. Becks' son, Kellie R. Becks, Jr., who did not reside with Mr. Becks at the time of his death and who has not yet filed a claim.

Ms. Becks claims to have been married to Kellie R. Becks on August 8, 1976. Other than her assertion, there is no evidence in the record that they were married on that day. Whether or not such a marriage existed is a matter of Texas law. There is no evidence in the record that a common-law marriage has been proved by the parties in any type of judicial, administrative or other proceeding. We note that Texas law provides for declaration of a common-law or informal marriage by the parties. See Tex. Fam. Code Anns. 1.92 (Vernon 1975). No evidence of such a declaration has been presented. Section 1.91 of the code provides that in any judicial, administrative or other proceeding, the informal (or common-law) marriage of a man and woman may be proved by evidence that:

"(1) a declaration of their marriage has been executed under section 1.92 of this code; or

"(2) they agreed to be married, and after the agreement they lived together in this state as husband and wife and there represented to others that they were married."

Ms. Becks and her attorney are apparently trying to establish that a common-law marriage existed, in accordance with section 1.91(a)(2) of the code (cited above). One document in the file is an election to participate in the Federal Employees' Group Life Insurance Program, on which Mr. Becks designates Bernice B. Webb as his beneficiary and indicates that she is his wife. This document is dated October 14, 1982.

The record also contains, however, two election forms for the Federal Employees' Health Benefits Program, one dated October 22, 1981, and the other dated May 22, 1982, on which Mr. Becks clearly indicates that he is not married. Thus,

it is not clear that Mr. Becks believed himself to be married in 1982.

Ms. Becks also has submitted Mr. Becks' death certificate which lists herself, "Berneice Booker," as his wife; however, we note that it was she who provided this information to the individual filling out the certificate. Finally, Ms. Becks' attorney submitted a document which he asserts is evidence of their marriage. It is a document from the Internal Revenue Service indicating that Ms. Becks and Mr. Becks filed a joint income tax form in 1983. What the document indicates, however, is that Ms. Becks had not changed her name to Becks. The notice was sent shortly before Mr. Becks' death. The Internal Revenue Service was informing Ms. Becks that the Social Security number she used was not identified with the name Bernice Becks in the information provided by the Social Security Administration. Thus, it appears that Ms. Becks had never formally changed her name and was still Bernice B. Webb in 1984, at least as to Social Security and Internal Revenue Service records.

On the basis of the record before us, we find that the matter is too doubtful to conclude that a valid common-law marriage was established. Accordingly, we find that the payment was properly disallowed and the Claims Group's settlement is sustained.

In addition, the agency should attempt to contact Mr. Becks' son and advise him of his right to file a claim under 5 U.S.C. §§ 5581-5583.

*for*   
Comptroller General  
of the United States