

WASH



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Specialist McKinley T. Mack, USA, deceased

File: B-240221

Date: August 14, 1990

DECISION

Specialist McKinley T. Mack, USA, died while on active duty on April 28, 1988. Subsequently, claims for the death gratuity payable under 10 U.S.C. § 1475 were received from Ms. Bessie Booker, who the member had designated to receive the death gratuity as a person in loco parentis to the decedent, and the decedent's mother Ms. Rosa Mae Mack. Our Claims Group, by settlement dated June 5, 1990, properly determined that although the decedent had lived in Ms. Booker's household for 7 years, the member's natural mother, Ms. Mack, had also lived in the same household during that time and had exercised parental responsibilities and thus was the proper beneficiary of a one-half share of the death gratuity. The Claims Group also determined that Mr. McKinley Brooks, the decedent's father, is entitled to one-half of the death gratuity. Ms. Mack appeals that determination claiming that she is entitled to the entire death gratuity based on the allegation that Mr. Brooks did not support his son and therefore is not entitled to an equal share. We must deny Ms. Mack's claim for the following reasons.

Section 1475 of title 10, United States Code provides that a death gratuity shall be paid to the survivor of a member who dies on active duty as prescribed by 10 U.S.C. § 1477. Section 1477 provides that the death gratuity shall be paid to parents in equal shares when there is no eligible designated beneficiary and the decedent leaves no surviving spouse or children.

We have held that a lack of support by the parent of a deceased member does not affect the parent's entitlement to the gratuity in the absence of another person who qualifies as a person in loco parentis to the decedent. Charles L. Day, Jr., USA, B-184224, Aug. 28, 1975. Inasmuch as there is not any person who would qualify as such in this case, Ms. Mack and Mr. Brooks are entitled to equal shares of the death gratuity.

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Accordingly, the settlement of Claims Group is sustained and Ms. Mack's claims for the entire death gratuity must be denied.

James F. Hinchman
General Counsel