

DOCUMENT RESUME

02898 - [A1953017]

[Claim for Unpaid Compensation Due Deceased Federal Employee].
B-184461. July 8, 1977. 3 pp. + enclosure (1 pp.).

Decision re: John Lee King, Jr.; by Robert F. Keller, Deputy
Comptroller General.

Issue Area: Personnel Management and Compensation: Compensation
(305).

Contact: Office of the General Counsel: Civilian Personnel.

Budget Function: General Government: Central Personnel
Management (805).

Organization Concerned: Department of the Navy.

Authority: 5 U.S.C. 5582, 5582 (b).

An appeal was made to a prior denial of a claim by a deceased Federal employee's alleged son for unpaid compensation due the father. The claim was not allowed, as the evidence presented was not sufficient to show that the claimant was the son of the deceased employee. Therefore, it was unnecessary to consider the legal issues as to the claimant's entitlement that would be presented if there were sufficient proof of paternity. The prior denial was sustained. (Author/DJM)

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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-194461

DATE: July 8, 1977

**MATTER OF: John Lee King, Jr. - 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 entitle-
ment under 5 U.S.C. § 5582 that would
be presented if there was sufficient
proof of paternity.**

This matter concerns an appeal from settlement action by our Claims Division on September 19, 1974, which denied the claim made on behalf of John Lee King, Jr., a minor, for unpaid compensation due John L. King, deceased, who had been an employee of the Department of the Navy in Washington, D.C.

The controlling statute, 5 U.S.C. § 5582(b) (1970), 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.

B-184461

"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."

Mr. King did not designate a beneficiary and was unmarried at his death. The Department of the Navy, pursuant to section 5582(b), paid the unpaid compensation of \$1,126.20 due John L. King, deceased, to his mother. Shortly thereafter, a claim was filed on behalf of John Lee King, Jr., alleging that he is the son of the decedent, who had no other known children.

Our Claims Division referred to the intestate succession statutes of the District of Columbia, the jurisdiction where Mr. King was domiciled at the time of his death to determine whether John, Jr., was a "child" within the meaning of 5 U.S.C. § 5582. The Claims settlement also noted that the decedent never married the claimant's mother nor formally acknowledged John, Jr., as his son. Subsequent to the Claim's settlement, the claimant submitted a birth certificate which names John Lee King as the father of the claimant. Further, a notarized statement was submitted by John, Jr.'s pediatrician stating that John Lee King had accompanied both John, Jr., and his mother on one visit during 18 months of treatment. During that visit it is stated that John Lee King allegedly expressed great concern for John, Jr., acknowledged and accepted him as his son, and "assumed responsibility for his son."

We do not regard the evidence submitted on behalf of the claimant as being sufficient to show that the Claims Division settlement was wrong. There is no showing that the birth certificate constitutes anything more than the mother's representation that the deceased employee was the father of the claimant, John Lee King, Jr. There is no evidence that the claimant's mother followed up on this representation by seeking support from the alleged father, or by seeking a judicial determination, or otherwise.

B-184461

The only other evidence submitted is the affidavit of the pediatrician at Children's Hospital, made after the employee's death, which asserts that he did visit the hospital and accepted and assumed responsibility for the claimant as his son. However, in the absence of any other evidence that the deceased employee assumed responsibility for the claimant, the affidavit standing alone is clearly insufficient to be the basis for a determination of paternity. No evidence has been proffered to show that he ever married or attempted to marry the child's mother, or that he ever formally acknowledged or supported the child or designated the child as his beneficiary.

We are unable to conclude, therefore, that the evidence presented is sufficient to show that the claimant is the son of the deceased employee. 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 was sufficient proof of paternity.

In view of the foregoing, the settlement of our Claims Division denying the claim is sustained.


Deputy Comptroller General
of the United States

Director, Claims Division

Comptroller General

John Lee King, Jr. - Claim for unpaid compensation due
deceased employee - B-154461-O.M.

Returned herewith is file Z-2361085. By decision of today,
copy attached, the denial of the claim has been sustained.

Attachments