

DOCUMENT RESUME

02925 - [A2163275]

[Claim Disallowed Where No Documentation Exists]. B-188543.  
August 2, 1977. 3 pp.

Decision re: Robert Johnson, Jr.; by Robert F. Keller, Deputy  
Comptroller General.

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

Contact: Office of the General Counsel: Military Personnel.

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

Organization Concerned: Department of the Army; National Records  
Center, Mechanicsburg, PA.

Authority: 44 U.S.C. 33. 4 C.F.R. 31.7. 41 C.F.R. 101. 31 Comp.  
Gen. 340. Army Regulation 345-255, para. 97. Army Regulation  
640-10, para. C(e).

Former Army member appealed disallowance of claim for  
Class Q allotment allegedly due his mother for period 1955-1957.  
When Government records necessary to justify or refute a claim  
have been destroyed pursuant to law, or are unavailable due to  
lapse of time (some 20 years in this case), and there is no  
other documentation available from any source to establish the  
liability of the United States, disallowance must be sustained.  
(Author/DJM)

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R.N. Metcalf  
M.L. Pegg.



**DECISION**

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

**FILE:** B-188543

**DATE:** August 2, 1977

**MATTER OF:** Mr. Robert Johnson, Jr.

**DIGEST:** Where Government records necessary to either justify or refute a claim by a former Army member for a Class Q allotment have been destroyed pursuant to law, or become unavailable due to the lapse of time (some 20 years in this case), and there is no other documentation available from any source to establish the liability of the United States, this Office has no alternative but to sustain the disallowance of the claim.

This action is in response to a letter dated May 1, 1976, from Mr. Robert Johnson, Jr., which constitutes an appeal from the settlement by our Transportation and Claims Division (now Claims Division) dated January 20, 1975, which disallowed Mr. Johnson's claim for a Class Q allotment believed due his mother for the period 1955 through 1957, incident to his service in the United States Army.

We have been advised that Mr. Johnson was inducted and served on active duty as an enlisted member of the Army from October 20, 1955, to October 1, 1957. Subsequently, he reenlisted in the Regular Army on September 15, 1964, and was discharged on August 13, 1965.

Mr. Johnson initially submitted a claim for a Class Q allotment believed due his mother, Mrs. Minnie Johnson, to the United States Army Finance Center, Indianapolis, Indiana, in January 1974. It appears that this application did not identify sufficiently the period of his claim. However, after being informed by the Finance Center that the allotment account for his Regular service was correct, he identified the appropriate period as 1955 through 1957 in a letter dated January 14, 1974. Thereafter, he was notified that military personnel pay files of his first duty had been destroyed, that he should furnish authorization documents and copies of any correspondence for the period claimed, and that records of his prior service at the National Records Center, Mechanicsburg, Pennsylvania, would be reviewed. Being unable to find evidence to substantiate the claim, the Finance Center forwarded the matter to this Office for disposition.

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Our Claims Division disallowed Mr. Johnson's claim on the basis that records pertinent to any allotment account he might have established had been destroyed in accordance with applicable law, that there were no records to prove or disprove his claim, and that payment may not be made in the absence of clear and satisfactory evidence of validity and nonpayment after failure to act for a long period of years.

In his request for reconsideration, Mr. Johnson indicates that he has received contradictory information as to the existence or non-existence of his pay records and states that he can furnish sworn affidavits as to the amounts his mother received from the individual who cashed her checks.

Paragraph 97 of Army regulation 345-255 dated June 23, 1955, directs the destruction of retained organizational copies of WD AGO Form 30-5 (Allotment Discontinuance Notice upon Discharge or Release from Active Duty) after 1 year or upon discontinuance, whichever occurs first. Further, paragraph 8(e) of Army Regulation 840-10 dated December 20, 1956, directs the destruction of Allotment Authorization (DA Form 1341 and comparable forms) maintained in the Personnel Records Jacket United States Army (DA Form 201) upon retirement, discharge, or death. These financial records have been destroyed pursuant to law relating to disposal of records (see chapter 33 of title 44, United States Code and title 41, Code of Federal Regulations, Chapter 101, part 101-11, Records Management). Even if these records, which apparently were destroyed in accordance with applicable regulations, were available to furnish evidence of an allotment account, they would not establish that his mother did not receive appropriate checks when issued to her on the claimant's behalf. In addition, a sworn statement based upon the recollection after 20 or more years of an individual cashing checks, unsupported by authorization of funds withheld, finance records disclosing amounts withheld from the member's pay, or conclusive correspondence addressed to the claimant during the period, would be inadequate to establish this claim.

Paragraph 10.1, title 4 of the General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies (4 C. F. R. § 31.7 (1977)) provides as follows:

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"Claims are settled on the basis of the facts as established by the Government agency concerned and by evidence submitted by the claimant. Settlements are founded on a determination of the legal liability of the United States under the factual situation involved as established by the written record. The burden is on the claimants to establish the liability of the United States, and the claimants' right to payment. The settlement of claims is based upon the written record only."

While the burden of proof as to the validity of a claim against the United States, generally, is on the person asserting such claim, information as to its existence is usually found in records maintained by the Government. However, it has been long established that where, as in the present case, the records necessary to justify or refute a claim have been destroyed pursuant to law, the accounting officers of the Government may not give the matter favorable consideration where the claimant has failed to act on it for a long period of years. Thus, in cases where there is insufficient information given by a claimant to identify and establish a claim, there is no further action that this Office can take in the matter. See 31 Comp. Gen. 340 (1952).

Accordingly, the action previously taken by our Claims Division in this matter is sustained.

Deputy

  
Comptroller General  
of the United States