



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Leroy Chase, Jr. (Deceased) - Claims for Unpaid
Compensation

File: B-226914

Date: September 9, 1988

DIGEST

The disposition of the unpaid compensation of a deceased federal civilian employee is governed by the order of precedence in 5 U.S.C. § 5582(b) (1982). Where a claimant has sufficiently established that she had a common-law marriage with the employee and thus was his widow, this determination places her in a higher order of precedence than the employee's children for claiming unpaid compensation.

DECISION

This decision is in response to an appeal by Ms. Carol Ray Chase from our Claims Group's determination, Z-2854917, Jan. 28, 1987, which denied her claim for \$733.85, the amount of unpaid compensation due to Leroy Chase, Jr. (deceased), a former civilian employee of the Department of the Navy. For the following reasons and on the basis of further evidence submitted to our Office subsequent to our Claims Group's determination, we conclude that Ms. Carol Ray Chase is entitled to the unpaid compensation.

BACKGROUND

After the death of Mr. Chase on October 9, 1983, the Navy received two claims for the unpaid compensation due to the deceased. The first claim was filed by his former spouse, Ms. Genee M. Chase, on behalf of their two minor children, Robert A. and Ryan L. Chase. We note that Genee M. Chase was divorced from Leroy Chase, Jr., on March 31, 1983.^{1/} The second claim was filed by Ms. Carol D. Ray, now known as Ms. Carol Ray Chase, who alleges that she was the common-law

^{1/} Chase v. Chase, Civil Action No. D2751-82 (Sup. Ct. D.C. March 31, 1983).

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wife of Leroy Chase, Jr., from April 1983 until his death on October 9, 1983.

Mr. Chase did not file any designation of beneficiary form, and our Claims Group applied the order of precedence in 5 U.S.C. § 5582(b) (1982) to the evidence before it and decided in favor of the children's claims. Ms. Carol Ray Chase appealed that determination to our Office, and she has presented further evidence to demonstrate that she was the common-law wife of Mr. Chase from April 1983 to his death. Thus, she claims she is entitled to his unpaid compensation since a widow is listed in a higher order of precedence than the children of the deceased in subsection 5582(b).

OPINION

Subsection 5582(b) of title 5, United States Code, provides:

"(b) In order to facilitate the settlement of the accounts of deceased employees, money due an employee at the time of his death shall be paid to the person or persons surviving at the date of death, in the following order of precedence, and the payment bars recovery by another person of amounts so paid:

"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. . . ."

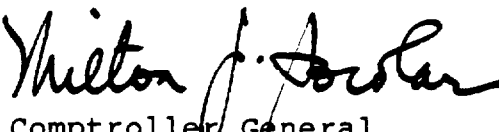
As noted above, Mr. Chase did not designate a beneficiary. Thus, the issue is whether Ms. Carol Ray Chase can be considered a widow of the employee whose claim would have a higher order of precedence than the children's claims under the statute quoted above.

In determinations of personal status, we look to the state law and related court decisions in the absence of federal domestic relations law. See Bernice Webb Becks, B-227483, Oct. 23, 1987. Since common-law marriages are recognized in the District of Columbia,^{2/} Ms. Carol Ray Chase could qualify as a widow if the evidence presented establishes that she has met the requisite criteria.

As explained by the court in Matthews, 303 F.2d at 409, a marriage that was valid under English common law is similarly effective under the common law of the District of Columbia. Thus, an agreement per verba de praesenti (by words of the present tense) to be husband and wife and consummated by cohabitation is sufficient. Matthews, supra.

In support of her claim, Ms. Carol Ray Chase has presented the affidavits or statements of 10 persons. The contents of these affidavits or statements are uncontradicted and, taken as a whole, clearly establish that during the period from April 1983 to October 9, 1983, Mr. Chase and Ms. Carol Ray Chase had a valid common-law marriage. Thus, we find that Ms. Carol Ray Chase is the widow of Mr. Chase for purposes of subsection 5582(b), and as such she stands in a higher order of precedence than Mr. Chase's children.

Accordingly, we reverse our Claims Group's action and grant the claim of Ms. Carol Ray Chase for \$733.85, the amount of unpaid compensation due to the deceased Mr. Chase.

for 
Comptroller General
of the United States

^{2/} Matthews v. Britton, 303 F.2d 408 (D.C. Cir. 1961); Hoage v. Murch Bros. Construction Co., 50 F.2d 983 (D.C. Ct. App. 1931).