



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

B-178403

June 5, 1973

31010

Mrs. Mary M. Leach
67 3rd Street
Albany, New York 12210

Dear Mrs. Leach:

This is in reference to your letter received in this Office on March 29, 1973, appealing the settlement by our Transportation and Claims Division, dated March 23, 1973, that disallowed your claim for unpaid compensation in the amount of \$14.65 due your deceased niece Mrs. Odella Brown, a civilian employee of the Defense Personnel Support Center, Defense Supply Agency, Philadelphia, Pennsylvania, at the time of her death on June 13, 1972.

The statute governing settlement of accounts of deceased employees is contained in 5 U.S.C. 5582(b):

(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.

Fourth, if none of the above, to the parents of the employee or the survivor of them.

Fifth, if none of the above, to the duly appointed legal representative of the estate of the employee.

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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.

The employing agency reports that Mrs. Brown had not designated a beneficiary to receive her unpaid compensation at the date of her death, in accordance with the above-quoted statute. Further the record reflects Mrs. Brown was survived by her husband, Mr. Russell Brown, from whom she was separated.

The above statute requires all unpaid compensation due a Federal employee at the time of death be paid first to a beneficiary named by the employee in writing to receive such unpaid compensation and filed with the Government, and second to the employee's widow or widower. The effect of the statutory provisions is to give the employee the power to designate a beneficiary to receive his unpaid compensation and in the absence of such designation by the employee, the person or persons next in line under the statute is to receive it. Hence, under the terms of the statute Mr. Brown, as the decedent's widower, is entitled to her unpaid compensation.

Although you were designated a beneficiary by the employee under the Federal Employees' Group Life Insurance (FGLI) program as provided in 5 U.S.C. 8705, such designation is separate and distinct from the designation of a beneficiary to receive unpaid compensation under 5 U.S.C. 5592. For this reason, a beneficiary designated under the FGLI program may not be considered as a beneficiary to receive unpaid compensation.

In the absence of a designated beneficiary, Mr. Brown, as widower, was entitled to the unpaid compensation. Accordingly, the denial of your claim by our Transportation and Claims Division was proper, and is hereby sustained.

Sincerely yours,

PAUL G. DEMBLING

For the Comptroller General
of the United States

cc: Department of the Army
U.S. Finance Support Agency
Settlement Operations, Claims Division
Indianapolis, Indiana 46249
Re: FINCS-AF-FA
Brown, Odilia
178 16 7653