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**DECISION****THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20540

FILE: B-187523

DATE: November 9, 1976

MATTER OF: Mr. Richard J. Knight

**DIGEST:** Where Government records necessary to either justify or refute a claim have been destroyed pursuant to law, or become unavailable due to the lapse of time, 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 Claims Division's disallowance of the claim.

This action is in response to a letter dated September 4, 1976, from Mr. Richard J. Knight, concerning his claim in the amount of \$300 for mustering-out pay incident to his service in the United States Army during the period of the Korean Conflict. Mr. Knight has, in effect, requested a review of the settlement of our Claims Division, dated August 24, 1976, which disallowed that claim.

The record shows that the member timely filed an application for mustering-out payment under the provisions of Title V of the Veterans Readjustment Assistance Act of 1952, approved July 16, 1952, ch. 875, 66 Stat. 663, 688. Apparently a check in the amount of \$300 was issued payable to the member on voucher number 2729 by the Disbursing Division, United States Army Finance Center, accounts of H. D. Lloyd, Lieutenant Colonel, symbol number 215-142. The application form shows that check was to be mailed to the member at Route #4, Box 110, Pensacola, Florida.

The member contends that he never received or negotiated that check and that no other person did so on his behalf. As a result, it is his view that the claim he is now making establishes the fact that he has never received the payment. In support of that view, he argues that an unfavorable determination in such circumstances should only be made when a claimant has doubts or cannot adequately establish eligibility for payment.

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While it appears that the claimant made timely application for mastering-out pay, was eligible for a \$300 payment, and was issued a check for \$300, proof of whether or not the check was ever negotiated is not available from Government records.

We have been advised by the U.S. Army Finance Center that records for the period in question 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). Therefore, since the check number or date of the check made on voucher number 2729 cannot be furnished, this Office is unable to determine whether the check issued to the member in 1952 was ever negotiated.

Paragraph 10.1, title 4 of the General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies provides as follows:

"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 thereon 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.

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

*M. K. Ryan*  
Acting Comptroller General  
of the United States