

County Commissioners—Deceased Soldiers—Burial—Expense.

Where the board of county commissioners stood ready to provide \$150 for the burial of a deceased soldier, as provided by law, but the same was refused by those in charge of the body, no claim can later be allowed against the county for the burial expense.

J. H. Forster, Esq.,
County Attorney,
Malta, Montana.

June 22, 1927.

My dear Mr. Forster:

You have requested my opinion on the following question:

“An honorably discharged soldier died in Phillips County about four years ago; at that time the board of county commissioners offered to pay \$150 for burial expenses as provided by the statute but the same was refused by the parents of the deceased; now the parents are claiming a refund from the county of the sum expended by them for burial of the body. Is this a lawful claim against the county?”

The law providing that the board of county commissioners should allow \$150 for the burial of all honorably discharged deceased soldiers, sailors, etc. was passed for the purpose of insuring a proper burial for this class of persons and the \$150 provided for under this provision can in no way be considered as a bonus or insurance.

In former opinions of this office it has been held that the board of county commissioners were obligated to allow the sum of \$150 toward the burial of the body of a deceased soldier, sailor, etc., regardless of the financial status of the deceased's estate. However, where at the time of the death of the deceased those in charge of the body refuse this \$150, this is equivalent to a waiver of this assistance from the county. In this regard it is to be noted that the \$150 provided for is to be expended under the supervision of some person appointed by the board of county commissioners and under no circumstances should this money be expended except in the manner provided by law and a claim against the county for money spent by those in charge of the body of a deceased soldier, sailor, etc. can only be allowed where the facts show that the board of county commissioners had at the time of the death neglected to make provision for the burial by appointing someone to have supervision of the same, as provided by the law in question.

It is therefore my opinion that where the board of county commissioners had not neglected this duty but stood ready to perform its duty in this regard, the relatives had no cause for complaint nor any claim against the county for a refund of the money spent by them for the burial.

Very truly yours,

L. A. FOOT,
Attorney General.