

FILE NO. 105283

January 10, 1962

Mr. Philip Wagner, Executive Secretary
Employees Retirement System
City Hall
Baltimore 2, Maryland

Re: Troy L. Tipton
Registry No. 47628

Dear Mr. Wagner:

You have requested an opinion of this office as to whether you may accept a properly executed "change of beneficiary" for ordinary death benefits under the Employees Retirement System when the change of beneficiary was not filed with your Board until after the death of the member.

You have informed us that on becoming a member in September, 1951, Troy L. Tipton designated his brother as beneficiary; after Tipton's death on October 5th, 1961, his widow presented to the Board of Trustees of the Employees Retirement System a change of beneficiary, executed by the deceased member on June 8, 1960, and notarized on July 28, 1960, designating the widow as beneficiary; she also presented to the Board a waiver executed by the brother, the original beneficiary, of his rights in and to the death benefits. We assume that you are satisfied with the authenticity of these documents.

Under the applicable provisions of the Pension Ordinance, death benefits are payable "to such person having an insurable interest in his (the member's) life as he shall have nominated by written designation duly executed and filed with the Board of Trustees." (Sec. 6(8)) There is no requirement that notice to the Board be given at any particular time or that it be given by the member himself. A similar clause was involved in the case of N.Y. Life Insurance Co. v. Flack, 3 Md. 341, where the only provision as to change of beneficiary was contained in the following paragraph:

"N.B. If assigned, notice to be given to the Company."