

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS
ON REFERRAL BY THE COMMISSIONER OF REVENUE**

IN THE MATTER OF)	OAH No. 10-0402-CSS
R L)	CSSD No. 001061468
)	
_____)	

DECISION AND ORDER

I. Introduction

On August 25, 2010, a formal hearing was held to consider the child support obligation of R L (Obligor) for the support of his child, W (Obligee).¹ The custodial parent, S T, participated. Mr. L did not participate. Erinn Brian, Child Support Services Specialist, represented the Child Support Service Division (Division). The hearing was audio-recorded. The record closed at the end of the hearing.

This case is Ms. T's appeal of the Division's order establishing Mr. L's child support obligation for his child, W. Ms. T appealed because she wanted to ensure that Mr. L was not charged child support arrears for months when he was living with W.

Having reviewed the record in this case and after due deliberation, the Administrative Law Judge concludes that the amounts set in the Division's Amended Administrative Child and Medical Support Order should be adjusted in accordance with the calculations filed by the Division prior to the hearing at exhibit 9. These new calculations reduce Mr. L's 2010 and ongoing child support by imputing only minimum wage earnings, rather than the higher earnings of \$10.00 per hour used in the calculation for the current order. Arrears for the months of November of 2008 through March of 2009 are removed from the order based on Ms. T's testimony that the family was intact during those months. Mr. L's ongoing child support is set at \$238 per month.

II. Facts

Ms. T applied for the public assistance for her child, W, when he was born in June of 2007. Paternity is not in dispute. Mr. L is named as W's father on his birth certificate.² The

¹ The hearing was held under Alaska Statute 25.27.170.

² Exhibit 1 & Recording of Hearing.

Division issued an Administrative Child and Medical Support Order on March 31, 2009.³ Ms. T requested an administrative review.⁴

The Division issued an Amended Administrative Child and Medical Support Order on July 6, 2010. In this order, the Division set Mr. L's ongoing child support at \$298 per month. The order also set monthly arrears going back to June of 2007.⁵

Mr. L requested a formal hearing. Prior to the hearing the Division filed new child support calculations and a new summary of support obligation form showing the months that public assistance records reflected that the family was intact.⁶ Mr. L did not participate in the hearing.⁷

Ms. T testified that the family was intact during the months of October 2007 through April of 2008, and November of 2008 through July of 2010. Ms. T also provided information about Mr. L's work history, which supported the assumption in the Division's latest calculations that making his best efforts, Mr. L is more likely to earn a minimum wage annual income than a annual income based on \$10 per hour full-time employment.⁸

Based on the evidence in the record, I find that it is more likely than not that these new calculations are correct and that the income used in these calculations is correct and that the family was intact during the months of October 2007 through April of 2008, and November of 2008 through July of 2010.⁹

III. Discussion

In a child support hearing, the person who filed the appeal, in this case Ms. T has the burden of proving by a preponderance of the evidence that the Division's order is incorrect.¹⁰ Ms. T met her burden to show, and the Division agreed, that Mr. L's child support order should be adjusted in accordance with the Division's latest calculations, and that Mr. L should not be charged child support for the months of October 2007 through April of 2008 and November of 2008 through July of 2010.

³ Exhibit 2.

⁴ Exhibit 5.

⁵ Exhibit 4.

⁶ Exhibit 9.

⁷ Recording of Hearing - Mr. L did not appear and was not available at his phone number of record.

⁸ Recording of Hearing – Testimony of Ms. T.

⁹ Recording of Hearing & Ex. 9.

¹⁰ Alaska Regulation 15 AAC 05.030(h).

IV. CHILD SUPPORT ORDER

1. Mr. L’s ongoing child support for W is at \$238 per month effective September 1, 2010.
2. Mr. L is liable for child support arrears for W in the monthly amount of \$50 per month for the months of June 2007 through September 2007; \$124 per month for the months of May 2008 through October 2008; and \$238 for the month of August 2010.
3. The Division should give the parties the appropriate debit or credit for their out-of-pocket expenses for providing health insurance coverage for W.
4. All other provisions of the Amended Administrative Child and Medical Support Order issued on July 6, 2010 remain in effect.

DATED this 30th day of August, 2010.

By: Signed
Mark T. Handley
Administrative Law Judge

Adoption

This Order is issued under the authority of AS 43.05.010 and AS 44.17.010. The undersigned, on behalf of the Commissioner of Revenue and in accordance with AS 44.64.060, adopts this Decision and Order as the final administrative determination in this matter.

Under AS 25.27.062 and AS 25.27.250, the obligor’s income and property are subject to withholding. Without further notice, a withholding order may be served on any person, political subdivision, department of the State, or other entity.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 25.27.210 and Alaska Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 16th day of September, 2010.

By: Signed
Signature
Mark T. Handley
Name
Administrative Law Judge
Title

[This document has been modified to conform to the technical standards for publication.]