

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

IN THE MATTER OF)	
T G. G)	OAH No. 12-0815-CSS
)	CSSD No. 001177953
_____)	

DECISION AND ORDER

I. Introduction

This case is T G. G’s appeal of an order issued by the Alaska Child Support Service Division (Division). That order established Mr. G’s child support obligation for the children, D and B. Hearings were held in Mr. G’s appeal. The custodial parent B E, the children’s mother, participated in the hearings. Mr. G participated. Mr. G was represented by his attorney, Jeff Pickett. Erinn Brian, Child Support Services Specialist, represented the Child Support Service Division (Division). The hearing was audio-recorded.

Having reviewed the record in this case and after due deliberation the Administrative Law Judge concludes that Mr. G’s ongoing monthly child support for D and B should be set at \$947 per month with arrears in that monthly amount going back to February of 2012 the month that Ms. E requested the Division’s services.

II. Facts

Although paternity was established by an administrative paternity order issued December 28, 2011, after genetic testing. Ms. E did not file a request for child support in this case until February of 2012.¹

The Division issued an Administrative Child and Medical Support Order on July 9, 2012. Mr. G filed a request for an Administrative Review.²

The Division issued an Administrative Review Decision and Amended Administrative Child and Medical Support Order dated October 8, 2012.

Mr. G filed a request for a formal hearing.³ At the hearing, Mr. G explained that he was concerned that his child support had not been set using the correct income information. Mr. G explained that he was given an advance when he first started work that was later deducted from

¹ Recording of Hearing &Exhibits 1-6 & 9.

² Exhibits 9 &10.

his pay. Although this advance was deducted from his pay Mr. G employer still included the advance in his gross earnings on his paystubs. This may have been because his employer paid him bonuses in unrefined gold. Another hearing was scheduled so that Mr. G could obtain estimate of the raw gold he had been paid as a bonus.

This gold turned out to have a value that was close to the amount of the advance, which may explained why the advance was maintained as gross income on Mr. G paystubs. Based on the income information provided by Mr. G, which included the paystubs and a receipt for a sale of a portion of the raw gold, the Division had made new calculations during to the hearing. At the hearing, the Division went over the information used in these calculations with Mr. G and Ms E.⁴

At the end the hearing the parties agreed to set Mr. G's child support in accordance with the Division's latest calculations, which were based on the updated income information. These calculations resulted in a monthly amount of \$947 for the two children. It was agreed that arrears would start beginning in February of 2012. After the hearing, however, Ms. E filed a request to re-open the record. A status conference was held on January 24, 2013 to take up this request. The request to re-open the record was denied, but rather than issuing an order based on the parties agreement after Ms. E had expressed her wish to withdraw her consent, this decision was issued.

III. Discussion

In a child support hearing, the person who filed the appeal, in this case Mr. G has the burden of proving by a preponderance of the evidence that the Division's order is incorrect.⁵ At the hearing, Mr. G and the Division carefully worked through Mr. G' paystubs, his information related to his raw gold bonus and the Division's latest calculations. Based on those discussions, and the evidence in the record, it is more likely than not that the Division's latest calculations are based on a better estimate of Mr. G 2012 income than the Division used to calculate Mr. G child support in its order.

These calculations give Mr. G a deduction for the money that was advanced to Mr. G and

³ Exhibit 15.

⁴ Exhibit 10 & Recording of Hearing.

⁵ Alaska Regulation 15 AAC 05.030(h).

later deducted from his pay checks, but includes the value of the raw gold that he was given as a bonus. Ms. E and the Division were both understandably concerned and confused about Mr. G's employer's accounting. However, the paystubs do show that Mr. G's understanding of how his pay worked is probably correct. Although his employer apparently did not deduct the advance that he received from what it described as his gross pay on his paystubs, his employer did deduct this advance from his paychecks. The raw gold bonuses were not on his paystubs, but this may be because the advance that Ms. E did pay back through payroll deductions was recorded as gross pay on his paystubs.

Ms. E requested to re-open based on her understanding of conversations about Mr. G 2012 pay with someone who worked in his employer's office and with an accountant who did not work for Mr. G's employer. Ms. E did not have any additional records from Mr. G's employer to offer as evidence, and she did not wish to call her source of information who works for Mr. G's employer as a witness. Ms. E wished to call her accountant as a witness to provide her understanding of Mr. G's paystubs.

At the hearing, those paystubs were discussed by all of the parties. All of the parties had time to carefully review those paystubs before the record closed. Although the way those paystubs account for the advance that was paid to Mr. G and later deducted from his pay is somewhat confusing, Ms. E's offer to attempt provide opinion testimony from a witness without direct experience of Mr. G's employers' recordkeeping and accounting practices would delay a final decision, drive up Mr. G attorney's fees and would be unlikely to show that the evidence that the advance was deducted from Mr. G's pay that is indicated in the paystubs themselves and Mr. G's sworn testimony is incorrect. Mr. G was a credible witness, who truthfully admitted to having received bonuses in raw gold.

IV. Conclusion

Mr. G's 2012 monthly child support arrears and ongoing child support should be adjusted in accordance with the Division's latest calculations. The child support amounts in this order were calculated using the primary custody formula in Civil Rule 90.3(a).

V. Child Support Order

1. Mr. G's ongoing child support for D and B is at \$947 per month effective February 1, 2013.
2. Mr. G is liable for child support arrears for D and B in the monthly amount of \$947 for

February through December of 2012 and January of 2013.

3. The Division should give the parties the appropriate debit or credit for their out-of-pocket expenses for providing health insurance coverage for D and B.

All other provisions of the Administrative Review Decision and the Amended Administrative Child and Medical Support Order dated October 8, 2012 remain in effect.

DATED this 30th day of January, 2013.

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 26th day of February, 2013

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

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