

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

IN THE MATTER OF)	OAH No. 13-1230-CSS
T R. N)	CSSD No. 001187299
)	
_____)	

DECISION AND ORDER

I. Introduction

This case is T R. N’ appeal of the order establishing his child support for his child E. W F is the child’s grandmother. The child now lives with his father. The Child Support Services Division (Division) issued the child support orders a period when the child was living with his grandmother and receiving public assistance. The Division set Mr. N’ arrear for August through December at 2012 at \$80 per month, based on his annual income for that year, and at the minimum of \$50 per month based on his low income from January through May of 2013 after which, E moved back with Mr. N.

Mr. N requested a formal hearing. This request was referred to the Alaska Office of Administrative Hearings. Administrative Law Judge Mark T. Handley was assigned to conduct the formal hearing, which was held on October 8, 2013. Mr. N did not participate. W F did not participate either. Erinn Brian, Child Support Services Specialist, represented the Division. The hearing was audio-recorded. The record closed on October 21, 2013.

Having reviewed the record in this case and after due deliberation, I conclude that the Division’s order should be upheld. Mr. N’ 2012 and 2013 child support was set based on his income for those years. The law requires that child support be set at no less than \$50 per month.

II. Facts

This case is an establishment action.¹ The child support case was established by the Division because an application for public assistance was filed for E when he was not living with Mr. N.²

¹ Alaska Civil Rule 90.3(a).

² Exhibit 1 & the Division’s Pre-Hearing Brief, page 1.

Paternity is not in dispute.³ The Division issued an Administrative Child and Medical Support Order on November 13, 2012.⁴ Mr. N appealed the child support order.⁵

The Division issued an Amended Administrative Child and Medical Support Order on August 7, 2013.⁶ The Division set Mr. N' monthly 2012 arrears at \$80 and his monthly ongoing child support for 2013 and ongoing at \$50. The order stopped charging support after May of 2013 because E was back in Mr. N' home.⁷

Mr. N requested a formal hearing.⁸ In his request for the hearing, Mr. N expressed his concern that Ms. F applied for public assistance. Mr. N provides sources of income available to Ms. F.⁹

Mr. N did not provide a phone number for the hearing as instructed by the notice sent to him. Mr. N did not answer at his phone numbers of record for the hearing. The hearing the record was held open for ten days to give Mr. N time to file a request to reschedule the hearing.¹⁰ Mr. N did not file such a request.

Based on the evidence in the record, I find that the Division's calculations used to set his arrears and ongoing child support, and the income used in those calculations, were correct.¹¹

III. Discussion

In a child support hearing, the person who filed the appeal, in this case, Mr. N, has the burden of proving by a preponderance of the evidence that the Division's order is incorrect.¹² Mr. N did not provide evidence showing that the Division's order was incorrect. Mr. N was primarily concerned about Ms. F's ability to collect public assistance when E was in her care. If Ms. F's failed to disclose income on her application for public assistance it would not change Mr. N' child support obligation.¹³

The Division correctly set Mr. N' 2013 and ongoing child support at the minimum

³ Exhibit 6.

⁴ Division's Pre Hearing Brief, page 1 & Exhibit 3.

⁵ Exhibit 4.

⁶ Exhibit 5.

⁷ Exhibit 5, page 9.

⁸ Exhibit 6.

⁹ Exhibit 6.

¹⁰ Recording of Hearing.

¹¹ Exhibit 5.

¹² Alaska Regulation 15 AAC 05.030(h).

amount of \$50 per month based on Mr. N' continued lack of income. Alaska law requires that child support be set at no less than \$50 per month. The Division could not set Mr. N' modified ongoing child support obligation below this amount.

The Division correctly set Mr. N' arrears for 2012 at \$80 per month based on his reported income in 2012. Child support is calculated based on annual income.

IV. Conclusion

I conclude that the Division correctly established a child support obligation in this case. The child support amount in the Division's order was calculated using the primary custody formula in Civil Rule 90.3(a) without variance.

V. Child Support Order

The Division's Amended Administrative Child and Medical Support Order issued on August 7, 2013 is affirmed.

DATED this 21st day of November, 2013.

By: Signed _____
Mark T. Handley
Administrative Law Judge

¹³ Alaska Civil Rule 90.3(a).

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 9th day of December, 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.]