

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

In the Matter of: )

E T. B )

) OAH No. 14-0287-CSS  
) CSSD Case No. 001182015

**DECISION**

**I. Introduction**

This case concerns the obligation of E T. B for the support of Q E and S B. The custodian of record is D M. E. The appeal is dismissed as untimely.

**II. Facts**

E T. B and D M. E, an unmarried couple, have two children, S B and Q E. On June 28, 2012, the Child Support Services Division issued an administrative support order establishing Mr. B's support obligation for S and setting support in the amount of \$178 per month, for one child, based on earnings of \$11,652 during the preceding four quarters.<sup>1</sup>

On February 20, 2013, the superior court issued a custody order for shared custody (50-50) of the two children, S and Q, effective January 31.<sup>2</sup> Subsequently, Mr. B left the state, and on May 6, 2013, Ms. E filed an application for services with the division, asking that Q be added to the existing order.<sup>3</sup>

The division served a copy of a petition for modification of the existing administrative order on Mr. B by mail on May 20, 2013.<sup>4</sup> On August 1, the division issued a modified administrative support order adding Q the existing support order and setting ongoing support at the amount of \$857 per month for two children, effective June 1, 2013, based on Mr. B's last reported wage of \$24 per hour.<sup>5</sup> A copy of the modified order was served on Mr. B by certified mail, restricted delivery, and was signed for on August 10 for by "D. B."<sup>6</sup>

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<sup>1</sup> Ex. 1.

<sup>2</sup> Ex. 2.

<sup>3</sup> Ex. 3, pp. 2-9.

<sup>4</sup> Ex. 4, pp. 3-4.

<sup>5</sup> Ex. 6.

<sup>6</sup> Ex. 16, pp. 14-15. Mr. B testified that his father, also named E B, signed for the delivery.

On January 6, 2014, Mr. B filed an appeal from the modified order. The division filed a motion to dismiss the appeal as untimely. A hearing on the motion was conducted on March 28, 2014. Mr. B participated.

### **III. Discussion**

The modified administrative support order at issue in this matter was issued under 15 AAC 125.321, pursuant to 15 AAC 125.340(c)(4). An appeal from a decision issued under 15 AAC 125.321 must be filed within 30 days of the date of the decision.<sup>7</sup> In this case, it is undisputed that Mr. B did not timely file his appeal.

The administrative law judge may waive the deadline for filing an appeal “if it appears that strict adherence to the...requirement will work an injustice.”<sup>8</sup>

In this case, it does not appear that strict adherence to the requirement for administrative review will work an injustice. A custody proceeding is pending in the superior court. The court issued a custody order on March 19, granting Ms. E custody of both children, and scheduling a further hearing for April 25. The court has the ability to address Mr. B’s support obligation. Moreover, Mr. B made an oral request for modification of the modified order at the administrative hearing, and Mr. Rawls stated the division would honor that request, which will allow for prospective correction of any error in the prior administrative order. Mr. B was provided notice of the order at his correct mailing address. Under these circumstances, he has not established good cause to waive the appeal deadline

### **IV. Conclusion and ORDER**

The motion should be granted, and this appeal is therefore dismissed. The modified administrative support order dated August 1, 2013, remains in effect.

DATED: April 7, 2014.

*Signed* \_\_\_\_\_  
Andrew M. Hemenway  
Administrative Law Judge

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<sup>7</sup> 15 AAC 05.010(b)(6).

<sup>8</sup> 15 AAC 05.030(k).

## Adoption

This Decision and 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 28<sup>th</sup> day of April, 2014.

By: Signed \_\_\_\_\_  
Signature  
Andrew M. Hemenway \_\_\_\_\_  
Name  
Administrative Law Judge \_\_\_\_\_  
Title

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