

**Alaska Department of Health and Social Services  
Final Agency Decision**

In the Matter of	)	
	)	OAH No. 17-0199-ATP
T S	)	Agency No.
_____	)	

**I. Introduction**

Mr. T S requested a hearing in response to the February 9, 2017 notice of termination of Temporary Assistance benefits for one month issued by the Division of Public Assistance. An administrative hearing was held on March 22, 2017, and the proposed decision in the matter reversed the Agency’s determination and concluded good cause did exist for Mr. S to voluntarily separate from the job he held for a very short duration.

Upon review of the record, and considering the facts and evidence presented, Mr. S voluntarily separated from his employment without good cause. The Agency’s decision imposing a penalty terminating eligibility for Temporary Assistance benefits for one month is **AFFIRMED**.

**II. Discussion**

It is not disputed that Mr. S voluntarily separated from employment at the No Name restaurant. The issue is whether good cause existed for Mr. S to do so. Mr. S quit his job because his first paycheck was not issued to him in a timely manner. There is no dispute that there was an issue with Mr. S getting his first paycheck on time. Mr. S had previously worked for this employer and had a very similar experience with his first paycheck when he worked for them previously. In both cases Mr. S immediately voluntarily separated from employment without continuing to work to see if his second paycheck would arrive in a timely manner. It should be noted that in both instances where Mr. S was briefly employed by the No Name restaurant, he did in fact get paid for his services. 7 AAC 45.261 describes the circumstances that may

constitute good cause to voluntarily separate employment. A delay in your first paycheck due to clerical or other errors is not listed as a circumstance that may constitute good cause.

### **III. Conclusion**

It is not unusual for clerical or other errors to occur when an employer processes payroll for a new employee. Typically, following the first payroll cycle the errors are minimal and payroll tends to become a much more routine and timely process. Twice, Mr. S immediately voluntarily separated from employment without determining if his second paycheck would be issued on time. A delay in the receipt of a first paycheck does not constitute good cause to voluntarily separate from employment. The Division's termination of eligibility for Temporary Assistance benefits for one month is **AFFIRMED**.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 44.62.560 and Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 25 day of April, 2017.

By: Signed \_\_\_\_\_  
Douglas Jones  
Medicaid Program Integrity Manager  
Department of Health and Social Services

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

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL  
BY THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES**

In the Matter of	)	
	)	OAH No. 17-0199-ATP
T S	)	Agency No.
_____	)	

**[REJECTED PROPOSED] DECISION**

**I. Introduction**

On February 9, 2017, the Division of Public Assistance (Division) sent Mr. S written notice it was imposing a penalty which terminated his eligibility for Temporary Assistance benefits for one month: he would not receive benefits after February 28, 2017, and was not eligible to reapply for them until April 1, 2017. Mr. S requested a hearing.

Mr. S's hearing was held on March 22, 2017. Mr. S represented himself. Sally Dial, Public Assistance Analyst with the Division, represented the Division.

This decision concludes that the Agency was not justified in imposing a one-month penalty against Mr. S's Temporary Assistance benefits. As a result, the Agency's decision imposing that penalty is REVERSED.

**II. Facts<sup>1</sup>**

Mr. S was a Temporary Assistance recipient. He applied to renew his benefits on January 30, 2017. When he applied to renew those benefits, he had just started a part-time job at No Name Restaurant.<sup>2</sup> He, however, quit that job almost as soon as he started. Mr. S had worked at the restaurant before, in September of 2016, where he quit after getting paid late because the employer did not give him the necessary paperwork to fill out after he was hired. He was rehired at the restaurant in late January 2017. He made sure that he filled out the necessary paperwork to get paid as soon as he was hired. However, when payday came around, the other employees were paid and he was not. Mr. S spoke to his on-shift manager, and tried to get in touch with the owner that same day, but was unable to.

Mr. S knew the bookkeeper for the restaurant. He went to the bookkeeper's office the very next day to see if he needed to complete some paperwork to get paid. The bookkeeper had all the essential paperwork, with the exception of Mr. S's timecard showing his hours worked.

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<sup>1</sup> Unless otherwise stated, the facts are based upon Mr. S's testimony.

<sup>2</sup> Exs. 1, 2.1, 2.3.

The bookkeeper was able to contact the owner. He completed the paperwork for Mr. S's paycheck.

Mr. S was leaving the bookkeeper's office with the paperwork to take to the owner, so that the owner could write him a paycheck. However, a relative of the owner, who was also an employee, showed up at the bookkeeper's office when Mr. S was leaving. He asked Mr. S what he was doing there, and took the paperwork from him, saying that he would take it to the owner. Mr. S and the owner's relative went to the restaurant and met with the owner. Based upon his previous experience working at the restaurant, Mr. S determined that this was not a reliable employer and told him that he was quitting. He did get paid.<sup>3</sup>

A Division eligibility technician spoke to the restaurant's bookkeeper, as part of processing Mr. S's January 30 renewal application. The bookkeeper confirmed that there was an issue with Mr. S getting paid on time.<sup>4</sup> The Division then imposed a penalty against Mr. S's Temporary Assistance benefits on February 9, 2017 because he quit his job without good cause. That penalty consisted of his Temporary Assistance benefits being terminated after February 28, 2017 and his not being eligible to reapply for them until April 1, 2017.<sup>5</sup>

### **III. Discussion**

The Temporary Assistance program imposes a job quit penalty upon recipients for voluntarily separating from employment without good cause. That penalty disqualifies a recipient from receiving Temporary Assistance benefits for one month, for a first-time offense.<sup>6</sup> Voluntary separation is defined as a person quitting a job or being fired from a job due to misconduct or a failure to show up for work.<sup>7</sup>

The issue in this case is whether the Agency was correct when it imposed a one-month job quit penalty against Mr. S, which closed his Temporary Assistance case after February 28, 2017. The Division has the burden of proof in a case where it seeks to terminate benefits.<sup>8</sup> In order to meet that burden, it must show that Mr. S did not have good cause to quit his job.

A review of the facts in this case shows that the Division did not meet its burden. Mr. S had worked for this restaurant before and had difficulty getting paid. When he went back to

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<sup>3</sup> Exs. 4.1 – 4.4.

<sup>4</sup> Ex. 2.

<sup>5</sup> Ex. 3.

<sup>6</sup> AS 47.27.015(c)(1); 7 AAC 45.970(e).

<sup>7</sup> 7 AAC 45.990(b).

<sup>8</sup> 7 AAC 49.135.

work for the restaurant, he did not get his first paycheck on the day it was due. He was proactive and tried to resolve the matter that day and was unable to contact the owner of the restaurant. He continued to be proactive and saw the bookkeeper the very next day, and determined that his not getting paid was not due to him not completing essential paperwork, but because the bookkeeper had not received his time card from the restaurant. Then, after the bookkeeper contacted the owner and Mr. S was taking the completed paperwork to the owner to get his paycheck issued, another employee – who was related to the owner – interfered. Given Mr. S's prior experience as an employee of the restaurant, he had good cause for quitting. Accordingly, the Division did not meet its burden of proof.

#### **IV. Conclusion**

The Agency's decision to impose a one-month job quit penalty against Mr. S, which terminated his Temporary Assistance benefits after February 28, 2017 and made him ineligible for those benefits until April 1, 2017, is REVERSED.

DATED this 31<sup>st</sup> day of March, 2017.

*Signed*

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Lawrence A. Pederson  
Administrative Law Judge

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