

BEFORE THE DEPARTMENT OF REVENUE
STATE OF ALASKA

IN THE MATTER OF

C F

2001 PERMANENT FUND DIVIDEND

PERMANENT FUND
DIVIDEND DECISION

CASELOAD NO. 030631

C F timely applied for a 2001 permanent fund dividend. The Permanent Fund Dividend Division determined that Mr. F was not eligible, and it denied the application initially and at the informal appeal level. Mr. F requested a formal hearing by written correspondence. The hearing examiner affirms the division's decision.

This case originally involved Mr. F's 2001 and 2002 applications. After Mr. F provided additional information, the division withdrew from the 2002 case and granted Mr. F's application. The division continues to assert that Mr. F is not eligible for a 2001 dividend because he was unallowably absent during 2000, the qualifying year for a 2001 dividend.

According to its position statement,

The division contends that Mr. [F] was absent from Alaska a cumulative total of 363 days during calendar year 2000, the qualifying year for the 2001 dividend. Mr. F stated on his 2001 application that he was absent from Alaska from January 3, 2001 through the end of the year, an absence of 363 days in calendar year 2000, the qualifying year for the 2001 dividend.

Review of Mr. F's 2001 application shows that he clearly indicated that his absence began on January 3, 2001, not 2000. When he filled out the application, Mr. F may have been confused about the instructions that directed him to only list absences in 2000. But the only absence he listed began after the end of the qualifying year. Mr. F left the box for "absence end date" blank.

Next to the listed absence in 2001, Mr. F also wrote on his application, "I have been attending school in Oregon. I also attended summer school." An education verification form completed by the registrar at University X certifies Mr. F's attendance on the following dates:

March 27, 2000 – June 9, 2000	Full-time
June 12, 2000 – August 25, 2000	Part-time
September 25, 2000 – December 8, 2000	Full-time

In the material he submitted in support of his appeal, Mr. F wrote in part “Winter 2000 I worked at Facility Y in Anch AK. Mid March I left for University X – school.” Mr. F attached a copy of a payroll register from Facility Y for the first quarter of 2000. This document shows that Mr. F worked approximately 50 hours per week from January 1 through the end of February, 2000. In the pay period from March 1 to March 15 he worked an average of 40 hours per week.

In order to qualify for a dividend, a person must either have been present in Alaska for the entire qualifying year, or only absent as allowed by AS 43.23.008.¹ An absence for the purpose of receiving postsecondary education on a full-time basis is allowable,² and an applicant may claim up to 120 days of absence for other reasons in addition to the time spent in school.³

The period that Mr. F was a part-time student in the summer of 2000 is made up of 108 days from June 9 to September 25. Because he continued in school in the winter 2001 quarter, the period of the winter break following December 8 should be included as time in school. This leaves only the time between when Mr. F left Alaska in the middle of March to the beginning of school on March 27 in addition to the 108 days in the summer. Mr. F submitted a receipt from World Express Travel that shows he bought a ticket on Alaska Airlines for travel from Anchorage to Oregon on March 23, 2000, just four days before the beginning of school.

I find that Mr. F was absent from Alaska for 112 days in addition to the times he was absent receiving postsecondary education on a full-time basis. He does qualify for a 2001 dividend.

THEREFORE, IT IS ORDERED that the application of C F for a 2001 permanent fund dividend be GRANTED.

Appeal Rights: Applicants may ask the Commissioner of Revenue to reconsider this decision by filing a written Motion for Reconsideration within 10 days after the date of this decision, pursuant to 15 AAC 05.035(a). The motion must state specific grounds for relief, and should be addressed to: Commissioner's Office Appeals (Reconsideration), Alaska Department of Revenue, P.O. Box 110400, Juneau, Alaska 99811-0400.

If a Motion for Reconsideration is not filed, this order is the final administrative decision of the Alaska Department of Revenue. Appeals may be taken to the Alaska

¹ AS 43.23.005(a)(6).

² AS 43.23.008(a)(1).

³ AS 43.23.008(a)(14)(B).

Superior Court. Appeals must be filed within 30 days of the date of this order, in accordance with Rules of Appellate Procedure 601-612 and 15 AAC 05.040.

DATED: January 30, 2004

Signed _____
DALE WHITNEY
Revenue Hearing Examiner

ORDER OF ADOPTION OF DECISION OF HEARING OFFICER

I, Mark T. Handley, Senior Revenue Hearing Examiner, under the authority of AS 43.05.010, order that the attached decision relating to the eligibility of C F for a 2001 permanent fund dividend be adopted and entered in the applicant's file as of this date as the final administrative determination in this matter.

This decision was prepared by Dale A. Whitney, who was duly appointed under the authority of AS 44.17.010 and AS 44.25.010 as Hearing Officer, to consider the arguments and evidence presented in this appeal and to recommend a decision in this matter.

DATED: January 30, 2004

Signed _____
MARK T. HANDLEY
Senior Revenue Hearing Examiner