

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

IN THE MATTER OF:

D., D., M., B., and E. T. and C.K

Case No. OAH 05-0045-PFD

2005 Permanent Fund Dividend

DECISION & ORDER

I. Introduction

D.T., D.T., M.T., E.T., and C.K. applied for 2005 permanent fund dividends. M.T. applied on behalf of her child B.T.

The Permanent Fund Dividend Division determined that the applicants were not eligible, and it denied the applications initially and at the informal appeal level. The applicants requested a formal hearing. Administrative Law Judge Dale Whitney heard the appeal on February 24, 2006. Susan Lutz represented the PFD Division by telephone. D.T. also appeared by telephone. The administrative law judge affirms the division's decision.

II. Facts

Each of the applications was signed by the respective applicants, except for B.'s, which was signed by her sponsor, M.T. Each signature was dated "4-30-05." The envelope in which the applications were sent was postmarked in Buckland on April 30, 2005. The second digit in the date stamp showing when the division received the envelope is obscured, but "May" can be read, and the first digit "0" is legible; this shows the division received the envelope during the period from May 01 through May 09. Mr. T. testified that he and the other applicants typically apply for dividends in January when they receive application booklets in the mail, but he could not specifically remember when he filled out and mailed his 2005 application.

III. Discussion

In order to qualify for a dividend, a person must apply during the period from January 2 through March 31 of the dividend year.¹ The law directs the division to deny an application if it

¹ AS 43.23.011.

was postmarked after March 31 of the application period.² At a formal hearing, the person requesting the hearing has the burden of proving that the division's action was in error.³

Although the applicants usually apply in January, the evidence in this case indicates it is more likely than not that, for some reason, in 2005 they did not apply until April 30, which is after the deadline. Mr. T. testified that, with the cost of living in the bush, it would be difficult for he and his family without 2005 dividends. I sympathize with the applicants' situation, but the law does not allow exceptions to the timely filing rule except for certain situations that do not apply to most of the applicants in this case.⁴

One of the exceptions to the rule does apply to B.T. If a child does not receive a dividend because her sponsor did not apply on time, the child may apply for the dividend when she becomes an adult. This opportunity only lasts for one year after the child becomes an adult. B.'s family should remember this and remind her to apply for her 2005 dividend as soon as she turns eighteen.

IV. Conclusion

Because the applicants did not apply during the application period, the division was correctly following the law when it made the decision to deny the applications in this case. The division's decision should be affirmed.

V. Order

IT IS HEREBY ORDERED that the decision of the Permanent Fund Dividend Division to deny the applications of D.T., D.T., M.T., B.T., E.T., and C.K. for 2005 permanent fund dividends be AFFIRMED.

DATED this 27th day of February, 2006.

By: Dale Whitney
Administrative Law Judge

² 15 AAC 23.103(g).

³ 15 AAC 05.030(h).

⁴ AS 43.23.011; 15 AAC23.133.

Adoption

This Order is issued under the authority of AS 44.33.010 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.

DATED this 28th day of March, 2006.

By: DALE WHITNEY
Administrative Law Judge

The undersigned certifies that this date an exact copy of the foregoing was provided to the following individuals:

Case Parties
3/28/08