

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

IN THE MATTER OF

J.R.

Case No. OAH 05-0100-PFD

2001 Permanent Fund Dividend

DECISION & ORDER

I. Introduction

J.R. timely applied for a 2001 permanent fund dividend. The Permanent Fund Dividend Division initially granted the application, but later determined that Mr. R. was not eligible. The division then denied the application and assessed the dividend, affirming its decision at the informal appeal level. Mr. R. requested a formal hearing. Administrative Law Judge Dale Whitney heard the appeal on April 5, 2005. Thomas Cote represented the PFD Division by telephone. Mr. R. did not appear or show cause for his failure to appear; this decision is therefore based on the record in accordance with 15 AAC 05.030(j). The administrative law judge affirms the division's decision.

II. Facts

On November 2, 2000 Mr. R. filled out a jury questionnaire and returned it to the Anchorage court. On the questionnaire, Mr. R. stated that he was an Alaska resident and that he lived four miles from the courthouse. The division asserts that some time between the time he filled out this questionnaire and December 21, 2000, Mr. R. contacted the jury clerk and stated that he was no longer available for jury duty because he was moving to Mississippi. The jury clerk sent Mr. R. a notice stating that he had been excused from his summons for jury duty because he was a non-resident.

III. Discussion

A person is not eligible for a permanent fund dividend if, at any time from the beginning of the qualifying year through the date of application, the person has claimed to be unavailable for Alaska jury duty service because the person was not a resident.¹

In his informal appeal request, Mr. R. wrote,

¹ 15 AAC 23.143(d)(16).

Everything I told the jury clerk was true about me leaving to Mississippi. The only thing is when I got there I didn't like it and came back about three weeks later. I have enclosed my receipts to the apartment building I was renting from about Oct 2000 to April 01 2001 and some others to show I was in Alaska. I also didn't change my residency and had every intent in living in Alaska after my trip. Also the only reason I didn't make my jury request was because of the trip, and I had purchased the ticket prior to knowing about my summon to the jury.

In his formal hearing request, Mr. R. writes in part, "I did move to Mississippi. My decision to permanently relocate was never certain."

The letter the clerk sent to Mr. R. unequivocally stated that his excuse from jury duty was because he was a non-resident, and that this information "will be forwarded to the PFD." There is no evidence that Mr. R. responded to this notice or asked to reschedule his jury duty when he returned.

IV. Conclusion

It is more likely than not that during the year 2000 Mr. R. claimed to be unavailable for Alaska jury duty service because he was not an Alaska resident. Regardless of whether he actually remained an Alaska resident, Mr. R. is not eligible for a 2001 permanent fund dividend.

V. Order

IT IS HEREBY ORDERED that the decision of the Permanent Fund Dividend Division to deny the application of J.R. for a 2001 permanent fund dividend be AFFIRMED.

By: DALE WHITNEY
Administrative Law Judge

Adoption

This Order is issued under the authority of AS 43.05.010 and AS 44.17.010.1, Dale Whitney, Administrative Law Judge, on behalf of the Commissioner of Revenue, order that this decision and order relating to the eligibility of J.R. for a 2001 permanent fund dividend be adopted and entered in his file as the final administrative determination in this appeal.

Reconsideration of this decision may be obtained 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, if mailed, should be addressed to: Commissioner's Office Appeals (Reconsideration), Alaska Department of Revenue, P.O. Box 110400, Juneau, Alaska 99811-0400.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 25.27.210 within 30 days of the date of this decision.

DATED this 7th day of October, 2005

By: DALE WHITNEY
Administrative Law Judge

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

PFD Division
10/7/05