

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

IN THE MATTER OF

N.K.

Case No. OAH 05-0242-PFD

1997 Permanent Fund Dividend

ORDER GRANTING MOTION TO DISMISS

I. Introduction

N.K. timely applied for a 1997 permanent fund dividend. The Permanent Fund Dividend Division determined that Mr. K. was not eligible, and it denied the application initially and at the informal appeal level. Mr. K. requested a formal hearing. The division moved to dismiss the case, and Mr. K. did not respond to the motion. The administrative law judge grants the motion.

II. Facts

The division denied Mr. K.'s application on November 5, 1997 because his Navy leave and earning statement (LES) showed his state of legal residence to be Arkansas not Alaska. Mr. K. requested an informal conference on January 2, 1998, and the division asked for more information on February 13, 1998. Mr. K. did not respond, and the division affirmed its decision on April 30, 1998.

On March 7, 2005, Mr. K. submitted another informal hearing request, restating his earlier argument that the Navy's entry of Arkansas on his LES was a typographical error. Although this appeal was sent on a form for an informal conference, the division treated it as a formal hearing request because Mr. K. had already had an informal conference. Mr. K. did not explain why he was sending his appeal in more than seven years late, and he did not respond to the division's motion to dismiss the case.

III. Discussion & Conclusion

A request for a formal hearing must be filed within 30 days after the division has issued a decision from an informal conference.¹ The administrative law judge may waive the deadline if strict adherence to it would work an injustice.² There is no apparent reason that Mr. K. missed

¹ 15 A A C 05.030(a).

² 15 A A C 05.030(k).

the 30-day deadline by more than seven years, and no apparent interest of justice that would suggest waiver of the appeal deadline might be appropriate. The division's Motion to Dismiss should be granted.

IV. Order

IT IS HEREBY ORDERED that the Permanent Fund Dividend Division's Motion to Dismiss be GRANTED, and that no further proceedings be scheduled in this matter.

DATED this 3rd day of October, 2005.

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 N.K. for a 1997 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 A A C 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 3rd day of September, 2005

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

PFD Division
10/3/05

By: DALE WHITNEY
Administrative Law Judge