

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

IN THE MATTER OF

D.G.

Case No. OAH 05-0243-PFD

2004 Permanent Fund Dividend

ORDER GRANTING MOTION TO DISMISS

I. Introduction

D.G. timely applied for a 2004 permanent fund dividend. The Permanent Fund Dividend Division determined that Ms. G. was not eligible, and it denied the application initially and at the informal appeal level. Ms. G. requested a formal hearing by teleconference. The PFD Division moved to dismiss the case. Ms. G. did not respond to the motion. The administrative law judge grants the motion.

II. Facts

On April 6, 2004, the division sent Ms. G. a letter saying that her application had been selected for review because she had been in Idaho for several months in 2003. The letter asked her to provide information within 30 days about her absences in 2003 and the first three months of 2004. When Ms. G. did not respond, the division denied her application on July 6, 2004. The division sent a letter advising Ms. G. of the denial to *** Bawden Street in Ketchikan, the most recent address it had on file for Ms. G. The postal service returned this letter to the division with a stamp reading, "ATTEMPTED NOT KNOWN K T N ." A handwritten note on the envelope reads, "not at this address."

In her informal conference request dated October 28, 2004, Ms. G. wrote part, "I moved in January 04 from ** Bawden St to ** Martin St then to ** Sayles St. Somehow I never received your letter for information. I hope to fix this now!" In her formal hearing request dated March 14, 2005, Ms. G. wrote in part, "I called to update my address - As soon as I was aware, I've called 3 times to update my address."

III. Discussion

An appeal of a decision to deny a PFD application must be filed within 60 days of the division's decision to deny the application.¹ The administrative law judge may waive the deadline if strict adherence to it will work an injustice.² An applicant must provide a current mailing address with an application.³ If the applicant's mailing address changes before the dividend is paid or during the appeal process, the applicant must notify the division of the change in writing.⁴

Ms. G. states that she moved from ** Bawden Street in January, 2004. She provided this Bawden Street address on her application, which she signed on February 12, 2004. It appears Ms. G. did not put a current address on the application. Ms. G. states that she called the division three times to change her address. She does not say when she did this, but there is no evidence that she submitted the change of address in writing as required by law. Ms. G. has provided some evidence, including a copy of a restraining order, that she was in an abusive relationship with someone who withheld her mail from her. But this appears to have been in January and February 2004, and may have been the reason she moved away from Bawden Street. The division mailed the denial letter with the appeal form on July 16, 2004. This relationship does not explain Ms. G.'s late appeal.

IV. Conclusion

Ms. G. did not file her appeal in timely manner. She did not meet her duty to keep the division advised in writing of her address. Adherence to the normal appeal deadline would not work an injustice in this case. The division's Motion to Dismiss should be granted.

V. Order

IT IS HEREBY ORDERED that the Permanent Fund Dividend Division's Motion to Dismiss Appeal Request 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

¹ 15 A A C 05.010(b)(5).

² 15 A A C 05.030(k).

³ 15 A A C 23.103(c).

⁴ *Id.*

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 D.G. for a 2004 permanent fund dividend be adopted and entered in her 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 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
10/3/05