

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

IN THE MATTER OF:

D. and J. T. and minor  
children L. and E. T.

Case No. OAH 05-0268-PFD

2004 Permanent Fund Dividend

**ORDER GRANTING MOTION TO DISMISS**

**I. Introduction**

D. and J. T. timely applied for 2004 permanent fund dividends for themselves and on behalf of their children L. and E. 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 T.'s requested a formal hearing by written correspondence. The PFD Division moved to dismiss the case. The administrative law judge grants the motion.

**II. Facts**

The T.'s applied online for 2004 dividends on March 12, 2004, stating that they were in Alaska and providing for their address a post office box in Kenai. They listed verifiers who also used this same post office box address. When the T.'s sent in their signature forms, the return address on the envelope was the same post office box in Kenai, but the envelope was postmarked in California on March 15, 2004. The division sent Mr. and Ms. T. letters asking that they explain why their applications were postmarked in California, and asking that they complete parts B and C of supplemental schedules. The division sent these letters to the Kenai post office box, and the postal service did not return them. The T.'s did not respond to the letters, and on July 31, 2004 the division denied Mr. and Ms. T.'s applications and sent denial letters to the same post office box in Kenai. On August 4, 2004, the division denied the children's applications, and again sent the denial letters to the Kenai post office box. None of these letters were returned by the postal service. Some time in November, 2004, the T.'s mailed informal appeal requests to the division. These were dated November 10, 2004, postmarked November 17, 2004, and received by the division on

November 22, 2004. These appeal requests arrived in an envelope with a Los Angeles return address and a California postmark.<sup>1</sup>

The T.'s state that they never received any of the division's correspondence. They state that they were in California because Mr. T. needed medical treatment. While in California, somebody shot Mr. T. and that has delayed his return to Alaska. As of March, 2005, the T.'s are still in California. There is no evidence that the T.'s provided the division with an alternate mailing address until they filed their informal conference appeals. The T.'s have apparently still not provided the division with the information it originally requested.

### **III. Discussion**

A request for an informal conference appeal must be filed within sixty days of the date the division denies a PFD application.<sup>2</sup> For Mr. and Ms. T. that would be September 29, 2004, and for the children the appeal deadline would be October 3, 2004. This deadline may be adjusted if necessary to avoid an injustice.<sup>3</sup> Applicants must provide current mailing addresses with their PFD applications; if their addresses change before a dividend is paid, applicants must notify the division in writing of the new address.<sup>4</sup>

The T.'s have yet to say when they left Alaska for California, but they have not denied that it was before they filed their 2004 applications. The latest time they could have arrived in California would be March 15, 2004, the date their signature pages were postmarked in California. The T.'s may not have received the division's requests for information and the denial letters, but if so it was because they were out of the state and had not notified the division of a current mailing address. Under these circumstances, there are no interests of justice that require waiver of the normal appeal deadlines.

### **IV. Conclusion**

The T.'s did not file their appeals within sixty days of the date the division denied the applications. There are no interests of justice that require waiver of the appeal deadline. The division's motion to dismiss should be granted.

<sup>1</sup> Exhibit 4, p. 9.

<sup>2</sup> 15 A A C 05.010.

<sup>3</sup> 15 A A C 05.030(k).

<sup>4</sup> 15 A A C 23.103(c).

**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 November, 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 D., J., L., and E. T. for 2004 permanent fund dividends be adopted and entered in their 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 November, 2005.

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

By: DALE WHITNEY  
Administrative Law Judge

Case Parties  
11/3/05