

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

IN THE MATTER OF:

A.R.

Case No. OAH 05-0279-PFD

2004 Permanent Fund Dividend

**DECISION & ORDER**

**I. Introduction**

A.R. timely applied for a 2004 permanent fund dividend. The Permanent Fund Dividend Division determined that Mr. R. was not eligible, and it denied the application initially and at the informal appeal level. Mr. R. requested a formal hearing by written correspondence only. The administrative law judge affirms the division's decision.

**II. Facts**

For the first five months of 2003, Mr. R. was in Oregon attending college. After graduating in the spring, Mr. R. went to Washington DC to work in Senator Stevens' office. After that summer job ended, Mr. R. returned to Oregon and accepted a permanent full-time job that had been offered to him there. Over a year later, in November 2004, Mr. R. was offered a job in Anchorage, and he returned to Alaska.

When he submitted his application in February of 2004, Mr. R. indicated he had been absent from Alaska for the purpose of employment from September 2003 to the date he signed the application, except for four days around Christmas. He stated that he was not returning to Alaska to remain indefinitely, and that his principal home was in Portland.

In his informal appeal request, Mr. R. stated, "the only reason for not returning to Alaska to remain indefinitely was the fact that I was waiting to hear about the job I recently received." He went on to write, "I did at the time of filing for the PFD in 2004, intend to return to Alaska. The issue at hand was the timing of my return after finishing school."

**III. Discussion**

In order to qualify for a permanent fund dividend, a person must be an Alaska resident.<sup>1</sup> Even an Alaska resident will not qualify for a dividend if the person accepts permanent full-time

<sup>1</sup> AS 43.23.005(a)(2)-(3).

employment in another state during the qualifying year, or if the person maintains his principal home in another state during the qualifying year.<sup>2</sup>

Mr. R. does not dispute that he had a permanent, full-time job in Oregon during part of the qualifying year and at the time he applied for a 2004 dividend; he is not eligible for those reasons. I also find that Mr. R. was not an Alaska resident at the time he applied. An Alaska resident remains a resident while absent from the state, so long as the person maintains the intent to return to Alaska to remain indefinitely and is not absent under circumstances inconsistent with that intent. Mr. R. asserts that he always intended to return to Alaska, he just didn't know when. His return date was contingent on events beyond his immediate control, specifically on an offer of employment in Alaska.

Mr. R.'s absence is marked by its length of over a year, its indefinite nature, and the fact that Mr. R. had a job in Oregon and maintained his principal home there, while he did not have a home in Alaska. Mr. R. wrote on his application that at the time he was "living/working in Oregon." An absence under these circumstances is inconsistent with the intent to return to Alaska to remain indefinitely and to be an Alaska resident.

#### **IV. Conclusion**

Mr. R. accepted permanent full-time employment in another state during the qualifying year, he maintained his principal home in another state during the qualifying, and he was absent under circumstances inconsistent with the requisite intent to be an Alaska resident. For all of these reasons, Mr. R. is not eligible for a 2004 permanent fund dividend.

#### **V. Order**

IT IS HEREBY ORDERED that the decision of the Permanent Fund Dividend Division to deny the application of A.R. for a 2004 permanent fund dividend be AFFIRMED.

DATED this 28th day of November, 2005.

By: DALE WHITNEY  
Administrative Law Judge

<sup>2</sup> 15 A A C 23.143(d)(1), (4).  
OAH 05-0276-PFD

### **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 A.R. for a 2004 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 28th day of November, 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:

Case Parties  
11/28/05