

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

IN THE MATTER OF

S.Z.

Case No. OAH 05-0281-PFD

2003 Permanent Fund Dividend

ORDER GRANTING MOTION TO DISMISS

I. Introduction

S.Z. timely applied for a 2003 permanent fund dividend. The Permanent Fund Dividend Division determined that Ms. Z. was not eligible, and it denied the application initially and at the informal appeal level. Ms. Z. requested a formal hearing by written correspondence. The PFD Division filed a motion to dismiss the appeal. The administrative law judge grants the motion.

II. Facts

The division denied Ms. Z.'s application on November 20, 2003, and sent a letter notifying Ms. Z. of that fact to the address the division had on file for her at Eielson Air Force Base. The postal service did not return the letter to the division. In her appeal, Ms. Z. states that she did not learn that her 2003 dividend had been denied until sometime in 2004, when she was calling about her 2004 dividend. She then asked to have a copy of the appeal form sent to her, and she promptly returned it to the division on December 22, 2004.

III. Discussion

An appeal of a PFD denial must be submitted within sixty days of the date the dividend application is denied.¹ The administrative law judge may adjust this deadline if strict adherence to it would work an injustice.²

The reason the division denied Ms. Z.'s online application is that it did not have a signed certification page to complete Ms. Z.'s online application. Ms. Z. asserts that she did submit a signature page when she applied, and that the division requested another one in July 2003, which she submitted right away. Ms. Z. asserts that she never received anything further from the division, including a denial letter.

¹ 15 A A C 05.010.

² 15 A A C 05.030(k).

In her informal conference request, Ms. Z. stated that she went online in 2004 and discovered that her 2003 dividend had been denied; it was only then that she "called to get a appeal." In her formal hearing request, Ms. Z. states that it was when she was calling about her 2004 dividend that she learned that her 2003 dividend had been denied.

There may have been material lost in the mail, or some understandable mistake or confusion in this case. But it is unclear why it took so long for Ms. Z. to begin to wonder why she had not received her 2003 dividend and make some inquiry. It was not until more than one full year after 2003 dividends were distributed, near the end of 2004, that Ms. Z. discovered that she did not receive a 2003 dividend. In some cases the interests of justice might excuse a late application when the applicant, for unknown reasons, did not receive a denial letter. But applicants have some responsibility to keep informed of the status of their applications. Following the normal appeal deadlines does not work an injustice when the applicant has waited more than a year after distribution of dividends to inquire about not receiving one.

IV. Conclusion

Ms. Z. did not appeal the denial of her dividend application within sixty days of the date of denial. Strict adherence to the appeal deadline will not work an injustice in this case. The division's motion to dismiss should be granted.

V. Order

IT IS HEREBY ORDERED that 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 S.Z. for a 2003 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 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:

Case Parties
10/3/05