

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

IN THE MATTER OF:

M. and S. S.

Case No. OAH 05-0317-PFD

2004 Permanent Fund Dividend

DECISION & ORDER

I. Introduction

M. and S. S. applied for 2004 permanent fund dividends. The Permanent Fund Dividend Division determined that the S.'s were not eligible, and it denied the applications initially and at the informal appeal level. The S.'s requested a formal hearing. Administrative Law Judge Dale Whitney heard the appeal on May 26, 2005. Susan Lutz represented the PFD Division by telephone. The S.'s did not appear or show cause for their failure to appear; this decision is therefore based on the record in accordance with 15 A A C 05.030(j). The administrative law judge affirms the division's decision.

II. Facts

Ms. S. contacted the division by email on October 13, 2004, to inquire why she and her husband did not receive 2004 dividends. Ms. S. provided two confirmation numbers. Upon checking the numbers, the division determined that they were for 2003 dividends, which had already been paid on time. Ms. S. then asked if this meant she had forgotten to apply, and whether she could apply late. The division replied that the law required applications to be filed before March 31 of the dividend year, and Ms. S. then stated that she remembered filing dividend applications by mail in 2004. The division found it probable that the S.'s had forgotten to file their applications for 2004 and denied the applications.

III. Discussion

At a formal hearing, the person requesting the hearing has the burden of proving that the division's decision was incorrect.¹ In their appeal request, the S.'s questions the wisdom of the PFD laws and suggest the possibility of improper motives on the part of the PFD Division. But other than their unsworn written statements, the S.'s have not provided any evidence that they

¹ 15 A A C 05.030(h).

filed applications during the application period. With no evidence in the record, I can only find that the S.'s did not meet their burden of proving that the division's decision was in error.

IV. Conclusion

The applicants have not met their burden of proving that the division's actions were in error. The division's decision to deny the applications in this case should be affirmed.

V. Order

IT IS HEREBY ORDERED that the decision of the Permanent Fund Dividend Division to deny the applications of M. and S. S. for 2004 permanent fund dividends be AFFIRMED.

DATED this 17th 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 M. and S. S. for 2004 permanent fund dividends 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 17th day of November, 2005

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

Case Parties
11/17/05

By: DALE WHITNEY
Administrative Law Judge