

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

IN THE MATTER OF)
)
 R. L. & R. F. H.)
) Case No. OAH 06-0382-PFD
)
2005 Permanent Fund Dividend)

DECISION & ORDER

I. Introduction

R. and R. H. applied for 2005 permanent fund dividends after the 2005 application period for the purpose of initiating an appeal regarding a claimed timely application. The Permanent Fund Dividend division determined that they had not filed timely applications and were therefore ineligible; the division denied the late applications initially and at the informal appeal level. They requested a formal hearing and both appeared in person. Susan Lutz represented the PFD division by telephone. The administrative law judge affirms the division’s decision.

II. Facts

The H.s assert that they completed and submitted online applications during the application period, specifically prior to March 11, 2005. They did not get confirmation numbers, however, so they acknowledge their applications may have been filed incorrectly. They testified the dividend is a necessary part of their yearly budget, and asserted they should not be denied a 2005 dividend because they are not computer literate, and especially because the State took away the longevity bonus. Mr. and Mrs. H. requested that they be put into a category of extenuating circumstances and granted a dividend even though their applications were not received.

The division’s data processing manager, Annette G.E. Smith, submitted an affidavit and also testified that she had searched the 2005 online application database for R. and R. H. in several different ways, i.e. by name, by address, by social security number, and by date of birth, and had found no application for either of them.¹ The division submitted a copy of the complete online application form. The first page contains a warning that:

Your on-line application will not be considered filed until you receive a confirmation number and a message that says “Congratulations! Your PFD application has been submitted” on your final page.

* * * * *

¹ See Exh. 9.

It is your responsibility to submit your dividend application on or before midnight March 31, 2005. Your inability to use or submit this electronic application will not excuse you from applying by the deadline.^[2]

The evidence in the record shows it is more likely than not that Mr. and Mrs. H. accessed the online application website and filled in application forms with their personal information, but for some reason did not take the final step of actually submitting the form electronically. The H.s did not receive confirmation numbers, and did not view the final page with the message reading, "Congratulations! Your PFD application has been submitted."

III. Discussion

In order to be eligible for a dividend, a person must submit an application.³ Applications must be submitted during the period from January 2 through March 31 of the qualifying year.⁴ It is an individual's responsibility to ensure that an application is timely submitted.⁵ At a formal hearing, the person who has requested the hearing has the burden of proving that the division's decision was in error.⁶

Although they filled out application forms with their personal information, Mr. and Mrs. H. did not take the final step of submitting the forms. The division correctly analogizes this situation to one in which a person fills out a paper application form but does not put it in the mail. The H.s claim they completed their online applications, but the evidence does not support their claim. Even if there was a technical problem, the instructions make it clear that it is the applicant's responsibility to obtain and keep a confirmation number before an application will be considered to have been filed. Anyone who is unable to obtain a confirmation number because of computer difficulties can still submit a traditional paper application by certified mail to guarantee a timely application. However the application is submitted, it is the applicant's responsibility to see that it is submitted on time.

² Exh. 7.

³ AS 43.23.005(a)(1).

⁴ AS 43.23.011.

⁵ 15 AAC 23.103(g).

⁶ 15 AAC 05.030(h).

IV. Conclusion

Mr. and Mrs. H. did not meet their burden of proving that they submitted timely PFD applications. The division’s decision to deny their applications should be affirmed.

V. Order

IT IS HEREBY ORDERED that the decision of the Permanent Fund Dividend division to deny the applications of R. L. H. and R. F. H. for a 2005 permanent fund dividend is AFFIRMED.

DATED this 15th day of September, 2006.

By: Signed
Kay L. Howard
Administrative Law Judge

Adoption

This Order is issued under the authority of AS 43.05.010 and AS 44.17.010. The undersigned, on behalf of the Commissioner of Revenue and in accordance with AS 44.64.060, adopts this Decision and Order as the final administrative determination in this matter.

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 after the date of this decision.

DATED this 12th day of October, 2006.

By: Signed
Signature
Kay L. Howard
Name
Administrative Law Judge
Title

[This document has been modified to conform to technical standards for publication.]