

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

IN THE MATTER OF

K.H.

Case No. OAH 07-0541-PFD

2006 Permanent Fund Dividend

**DECISION**

**I. Introduction**

K.H. filed an untimely paper application for a 2006 permanent fund dividend for the purpose of initiating a hearing regarding an alleged timely-filed online application. The Permanent Fund Dividend Division ("the division") determined that Ms. H. was not eligible, and it denied the application initially and at the informal appeal level. Ms. H. requested a formal hearing by written correspondence only. Upon review of the entire file and due deliberation, the administrative law judge affirms the division's decision.

**II. Facts**

There is very little evidence in the file. The division has searched its records and found no evidence that Ms. H. applied for a 2006 dividend.<sup>1</sup> Ms. H. submitted a note to "whom it may concern" stating, "I had filled out the PFD application in January online and somehow didn't hit the right confirmation button. I'm really sorry for the inconvenience." On her informal appeal request, Ms. H. wrote, "I filed the application online, but somehow it didn't go through correctly."<sup>2</sup> In her formal hearing request, Ms. H. wrote,

I was a student at the University of San Diego and I filled out my application online. After I noticed that my application didn't go through, I called the PFD office and they told me that there were a lot of problems and if I got rejected and appealed it that I would be approved and receive my PFD for 2005. Thanks.<sup>3</sup>

**III. Discussion**

In order to qualify for a permanent fund dividend, a person must file an application.<sup>4</sup> Applications must be filed between January 2 and March 31 of the dividend year.<sup>5</sup> According to 15 AAC 23.103(g),

<sup>1</sup> Exhibit 6.

<sup>2</sup> Exhibit 1, page 4.

<sup>3</sup> Exhibit 3, page 2.

<sup>4</sup> Exhibit 5, page 2.

<sup>5</sup> AS 43.23.005(a)(1)

it is an individual's responsibility to ensure that an application is timely delivered to the department.... An online application must be received electronically by the department by midnight Alaska Standard Time on the last day of the application period. An applicant's proof of timely filing an online application is a copy of the computer generated confirmation page containing the confirmation number received by the applicant after completing the online filing process that shows that the online application was timely delivered to the department.

This case is governed specifically by 15 A A C 23.103(h), which reads:

If an individual has timely filed an application but the department does not have that application on file, the individual may submit a request to reapply on or before December 31 of the dividend year. A request to reapply must be accompanied by one of the following forms of evidence that an application was timely filed with the department:

- (1) a mailing receipt;
- (2) a mailing return receipt documenting delivery to the department or other evidence of receipt by the department; or
- (3) repealed 1/1/2006;
  - (A) repealed 1/1/99;
  - (B) repealed 1/1/99;
- (4) a copy of the computer-generated page containing the permanent fund dividend confirmation number received by the applicant after completing the online filing process.

At a formal hearing, the person requesting the hearing has the burden of proving that the division's decision was in error.<sup>7</sup>

Ms. H. has not produced any one of the three types of evidence listed above that would permit her to refile an application after the filing deadline. It is unclear from the evidence in this record exactly when Ms. H. attempted to file online, and why she did not take any other steps when she was unable to receive a confirmation number from the online application system. But even if this information were known, the law is clear that Ms. H. is not eligible to refile an application after the application deadline because she has not produced a confirmation number or other specific evidence showing she mailed or delivered an application on time. The division was correctly following the law when it made the decision to deny Ms. H.'s application.

<sup>7</sup> AS 43.23.011(a). Certain exceptions to this apply to some military personnel in hostile fire or imminent danger duty during the application period.

#### **IV. Conclusion**

The division has no record that Ms. H. filed an application during the application period, and Ms. H. has not submitted a confirmation number to support her assertion that she applied online during the application period. The division's decision to deny Ms. H.'s late-filed application should be affirmed.

#### **V. Order**

Upon adoption of this decision as the final administrative determination in this matter, the decision of the Permanent Fund Dividend Division to deny the application of K.H. for a 2006 permanent fund dividend shall be AFFIRMED.

DATED this 6th day of December, 2007.

By: Dale Whitney  
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 Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 4th day of January, 2008.

By: Dale Whitney

Administrative Law Judge

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

PFD Division  
1/4/08