

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

IN THE MATTER OF)
)
 T. S.)
) Case No. OAH 08-0415-PFD
)
2007 Permanent Fund Dividend)

DECISION

I. Introduction

T. S. timely applied for a 2007 permanent fund dividend. The Permanent Fund Dividend Division (“the division”) determined that Mr. S. was not eligible, and it denied the application initially and at the informal appeal level. Mr. S. requested a formal hearing. Administrative Law Judge Dale Whitney heard the appeal on September 16, 2008. Mr. S.’s wife, C. S., represented Mr. S. by telephone under a power of attorney. PFD Specialist Susan Pollard represented the PFD Division. The division’s decision to deny Mr. S.’s application was correct and should be affirmed.

II. Facts

Mr. S., his wife, and his two children moved to Alaska in December of 2005. The family bought a house in Eagle River at that time, and established normal residency ties to Alaska, such as obtaining Alaska driver’s licenses and registering to vote. The S.s have family in Alaska and intend to remain after the conclusion of Mr. S.’s military service. Ms. S. and the children applied for and were granted 2007 dividends.

Mr. S. serves in the Air Force. When the S.s moved to Alaska, Mr. S.’s state of legal residence was listed in his military employment records as Oregon. Mr. S.’s records continued to reflect Oregon as his state of legal residence through 2006. On March 28, 2007, Mr. S. signed a federal Form DD 2058, State of Legal Residence Certificate, identifying Alaska as his state of legal residence.¹

III. Discussion

This case does not involve questions of whether Mr. S. is an Alaska resident or whether he meets the statutory eligibility requirements. There is no serious dispute that Mr. S. is an Alaska resident and was one at all relevant times. Likewise, there is no dispute that Mr. S. is a United States citizen and has not been absent from Alaska except for reasons that are specifically allowable.

¹ Exhibit 2, page 4.

In addition to the statutory eligibility requirements, applicants must meet certain eligibility requirements contained in regulations. One regulation, 15 AAC 23.143(d), contains a list of actions that will disqualify an applicant even if all statutory eligibility criteria are otherwise met. The list of actions that will automatically disqualify an applicant, if taken during the qualifying year, include actions such as voting in another state, registering to vote in another state, obtaining a resident fishing license in another, and claiming a homestead exemption on real property in another state.

In addition to the above actions, a person will not be eligible for a dividend if, during the qualifying year, the person “claimed or maintained a claim of residency in another state or country in the individual’s employment personnel records.”² Mr. S. maintained a claim of residency in the State of Oregon in his personnel records up until he submitted a State of Legal Residence Certificate (DD Form 2058) on March 28, 2007. Thus, during the qualifying year, Mr. S. was maintaining a claim of residency in another state. In spite of the fact that he established normal residency ties before the qualifying year and appears to have no intent to leave Alaska, Mr. S. is not eligible for a 2007 permanent fund dividend.

IV. Conclusion

Because he maintained a claim of residency in another state during the qualifying year, Mr. S. is not eligible for a 2007 permanent fund dividend. The division’s decision to deny Mr. S.’s application for a 2007 permanent fund dividend is **AFFIRMED**.

DATED this 21st day of November, 2008.

By: *Signed* _____
DALE WHITNEY
Administrative Law Judge

² 15 AAC 23.143(d)(2).
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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 17th day of December, 2008.

By: Signed – Terry L. Thurbon for
Signature
Dale A. Whitney
Name
Administrative Law Judge
Title

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