

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

In the Matter of :)	
)	
R. R.)	
)	OAH No. 08-0448-PFD
<u>2007 Alaska Permanent Fund dividend</u>)	DOR No. 2007-063-3871

DECISION and ORDER

I. Introduction

R. R.’s application for a 2007 Alaska Permanent Fund dividend was denied. She filed a timely appeal and requested a hearing by correspondence. The case was referred to the Office of Administrative Hearings. Based on the evidence in the record, the Permanent Fund Dividend Division’s (Division) decision is affirmed.

II. Facts

R. R. is a long-time Alaska resident who lives in Anchorage. She has routinely timely applied for and received an annual Alaska Permanent Fund dividend.

Ms. R. asserts that she filled out her application for a 2007 dividend and mailed it to the Division prior to March 31, 2007. The Division has no timely application from Ms. R. file, and Ms. R. has no mailing receipt, return receipt, or other documentary evidence that she timely mailed her application.

III. Discussion

An application for an Alaska Permanent Fund dividend must be filed during the period beginning January 1 and ending March 31 of the dividend year.¹ The Department of Revenue (Department) has authority to prescribe application procedures by regulation.² The Department’s regulations state that “[a]n application must be received by the department or postmarked during the application period...to be considered timely.”³ If an individual timely submits an application, but the Department does not have the application on file, the individual may submit a request to reapply.⁴ A request to reapply when a timely submitted mailed application is not on file must be accompanied specified evidence that an application was timely

¹ AS 43.23.011(a).
² AS 43.23.055(2).
³ 15 AAC 23.103(a).
⁴ 15 AAC 23.103(h).

filed: either a mailing receipt, or a mailing return receipt documenting delivery to the Department or other evidence of receipt by the Department.⁵

Ms. R. has submitted statements explaining that she timely mailed her application, and that she believes it was somehow lost in the mail. Her statements are undisputed, and there is no reason to disbelieve her. The preponderance of the evidence is that Ms. R. mailed her application on time.

However, it is also undisputed that the Department does not have the application on file and that Ms. R. does not have documentary evidence that she timely mailed the application. Under these circumstances, the Department's regulations mandate the denial of the 2007 dividend: no timely application is on file, and the request for reapplication is not supported by the evidence required by law. Ms. R.'s unsupported testimony, although truthful and persuasive, is insufficient.

IV. Conclusion

Ms. R. is ineligible for a 2007 dividend.

V. Order

1. The Division's denial of the application of R. R. for a 2007 Alaska Permanent Fund dividend is AFFIRMED.

DATED November 17, 2008.

Signed

Andrew M. Hemenway
Administrative Law Judge

⁵ 15 AAC 23.103(h)(1), (2).

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 16th day of December, 2008.

By: Signed
Signature
Andrew M. Hemenway
Name
Administrative Law Judge
Title

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