

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

IN THE MATTER OF)
)
 K. E.) Case No. OAH-08-0609-PFD
)
)
 2008 Permanent Fund Dividend)

DECISION

I. Introduction

K. E. timely applied for a 2008 permanent fund dividend. The Permanent Fund Dividend Division (“the division”) determined that Mr. E. was not eligible, and it denied the application initially and at the informal appeal level. Mr. E. requested a formal hearing by written correspondence only. Review of the written record shows that Mr. E. was incarcerated at some time during the qualifying year and has been convicted of at least two prior misdemeanors. Because Mr. E. has not met his burden of showing that the division’s decision was in error, the decision is affirmed.

II. Facts

The division’s letter to Mr. E. denying his PFD application stated that Mr. E. had been incarcerated at some during 2007 as the result of a conviction after having been previously convicted of at least two misdemeanors, and this was the reason Mr. E. was ineligible.¹ In his informal appeal request, Mr. E. checked a box stating “no” to a question asking if anything in the denial letter was incorrect. In a space to explain what was incorrect, Mr. E. wrote, “Did Have Denial for few reasons. Don’t see why, But I do know. Why I Doesn’t include my opinion re inside me for 2008 please for PFD are optional thank you.”² In a space for “other considerations,” Mr. E. wrote, “None are for this year I promise you I been a good boy always someone’s favorite guy.” In his formal hearing request, Mr. E. checked a box asking for a hearing by written correspondence only. He provided his name, identifying information and signature in the appropriate blocks, but did not provide any narrative or explanation of why he was filing an appeal.³ The division presented information from the Department of Corrections showing that Mr.

¹ Exhibit 2.

² Exhibit 3, page 2.

³ Exhibit 5.

E. had been incarcerated from December 19, 2006, until January 12, 2007.⁴ The Department of Corrections asserts that Mr. E. had been convicted of a number of misdemeanors prior to 2007.

III. Discussion

For a 2008 dividend, the qualifying year was 2007. If a person was incarcerated at any time in the qualifying year for conviction of a misdemeanor, and the person has previously been convicted of two or more misdemeanors at any time since 1996, that person will not be eligible for a 2008 dividend.⁵ At a formal hearing, the person requesting the hearing has the burden of proving that the division's decision was in error.⁶

It is not clear why Mr. E. appealed the division's decision. Mr. E. does not appear to disagree with the division's assertion that he was incarcerated at some time in 2007, or that he has previously been convicted of at least two misdemeanors. The record does not reveal any obvious errors in the division's decision.

IV. Conclusion

Mr. E. has not met his burden of proving that the division's decision was in error. Therefore, the division's decision to deny the application of K. E. for a 2008 permanent fund dividend is AFFIRMED.

DATED this 19th day of February, 2009.

By: Signed _____
DALE WHITNEY
Administrative Law Judge

⁴ Exhibit 4, pages 4-12.

⁵ AS 43.23.005(d)(2).

⁶ 15 AAC 05.030(h).

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 20th day of March, 2009.

By: Signed
Signature
Dale Whitney
Name
Administrative Law Judge
Title

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