

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

In the Matter of :)	
)	
G. O. and J. L.)	
)	OAH No. 09-0061-PFD
<u>2006 Alaska Permanent Fund dividend</u>)	DOR No. 2006-062-8013

DECISION

I. Introduction

The applications of G. O. and J. L. for the 2006 Alaska Permanent Fund dividend were denied. Mr. O. and Ms. L. filed an untimely appeal and requested an informal conference. The Permanent Fund Dividend Division denied the request for an informal conference. Mr. O. and Ms. L. filed an untimely timely appeal from that decision. The case was referred to the Office of Administrative Hearings. The division filed a motion to dismiss the appeal. The motion is granted.

II. Facts

G. O. and J. L. filled out their applications for the 2006 Alaska Permanent Fund dividend on March 31, 2006, and deposited them in a mailbox on that date. The envelope containing the applications was postmarked April 1, 2006. The reason the applications were not postmarked on the same date they were deposited is unknown.

On July 26, 2006, the division denied the applications as untimely.¹ On December 14, 2006, Mr. O. and Ms. L. submitted their requests for an informal appeal, which the division received on December 21.² On June 27, 2007, the division issued its informal conference decision, again denying the applications as untimely.³

On January 26, 2009, Mr. O. and Ms. L. submitted requests for an appeal. The division received the request on January 30, 2009. The matter was referred to the Office of Administrative Hearings, and the division filed a request to dismiss the appeal. The assigned

¹ Ex. 2.

² Ex. 3.

administrative law judge conducted a hearing on the motion on March 16, 2009, with the parties' participation. The record was held open to allow time for the appellants to submit documentation from the postmistress to explain the circumstances leading to the postmark date on the envelope, but no additional evidence was submitted.

III. Discussion

An appeal from the denial of an application for a permanent fund dividend must be filed within thirty days of the date of denial.⁴ The administrative law judge may extend the time for filing an appeal when "strict adherence to the deadline...would work an injustice."⁵

In this case, Mr. O. and Ms. L. did not provide a reason for their delay in filing an appeal. It is undisputed that their application was postmarked after March 31, 2006. To be timely, an application that has been mailed must be postmarked no later than March 31, except that a later postmark will be accepted if the applicant provides a statement from the United States Postal Services "that describes the specific circumstances under which the postal service incorrectly posted the individual's application or caused a delay in posting."⁶ In the absence of such a statement, the administrative law judge lacks legal authority to grant this appeal, even if it had been timely filed.

IV. Conclusion

Strict adherence to the time limit for filing an appeal will not work an injustice. Therefore, the division's motion to dismiss the appeal is GRANTED, and this appeal is DISMISSED.

DATED July 1, 2009

Signed

Andrew M. Hemenway
Administrative Law Judge

³ Ex. 4.
⁴ 15 AAC 05.010(b)(5).
⁵ 15 AAC 05.030(k).
⁶ 15 AAC 23.102(g).

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 13th day of August, 2009.

By: Signed
Signature
Virginia Blaisdell
Name
Director, Administrative Services Division
Title

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