

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

In the Matter of :)	
)	
E. P. P.)	
)	OAH No. 09-0096-PFD
<u>2008 Alaska Permanent Fund dividend</u>)	DOR No. 2008-064-8634

DECISION

I. Introduction

E. P. P. mailed a timely application for a 2008 Alaska Permanent Fund dividend. The Permanent Fund Dividend Division does not have a timely application on file, and it denied his request to reapply. Mr. P. filed a timely appeal and requested a hearing. The case was referred to the Office of Administrative Hearings.

Mr. P. was notified of the date and time of a telephonic hearing but he did not appear at the hearing or contact either the division or the Office of Administrative Hearings within ten days of the scheduled hearing date; the administrative law judge may therefore issue a decision without taking testimony from him.¹

Based on the evidence in the record, the division's decision is affirmed.

II. Facts

E. P. P. is a long-time Alaska resident who lives in Kenai. He has routinely timely applied for and received an annual Alaska Permanent Fund dividend.

Mr. P. asserts that he filled out his application for a 2008 dividend and mailed it to the division prior to March 31, 2008. The division has no timely application from Mr. P. on file, and Mr. P. has no mailing receipt, return receipt, or other documentary evidence that he timely mailed his application.

III. Discussion

An application for a permanent fund dividend must be filed during the period beginning January 1 and ending March 31 of the dividend year.² The department has authority to prescribe application procedures by regulation.³ The department's regulations state that "[a]n application must be received by the department or postmarked during the application period...to

¹ 15 AAC 05.030(j); 2 AAC 64.320(a).

² AS 43.23.011(a).

be considered timely.”⁴ If an individual timely submits an application, but the division does not have the application on file, the individual may submit a request to reapply.⁵ A request to reapply when a timely submitted mailed application is not on file must be accompanied specified evidence that an application was timely filed: either a mailing receipt, or a mailing return receipt documenting delivery to the department or other evidence of receipt by the department.⁶

Mr. P. asserts that he timely mailed his application, and that he believes it was somehow lost in the mail. There is no reason not to believe him, and there are a multitude of ways in which a timely application could be lost in the mail or even lost by the division after receipt. In all such cases, however, the law require the division to deny a subsequent request to submit a late application unless the applicant has specific documentary evidence that the original application was submitted on time. In this case, Mr. P. does not have documentary evidence that he timely mailed the application. Under these circumstances, the division’s regulations mandate the denial of the 2008 dividend: no timely application is on file, and the request for reapplication is not supported by the evidence required by law.

IV. Conclusion

Mr. P. is ineligible for a 2006 dividend. The division’s decision is sustained.

DATED July 21, 2009.

Signed

Andrew M. Hemenway
Administrative Law Judge

³ AS 43.23.055(2).
⁴ 15 AAC 23.103(a).
⁵ 15 AAC 23.103(h).
⁶ 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 25th day of August, 2009.

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

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