

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

In the Matter of :)	
)	
A R. T)	
)	OAH No. 09-0117-PFD
<u>2008 Alaska Permanent Fund dividend</u>)	DOR No. 2008-063-1372

CORRECTED DECISION¹

I. Introduction

A R. T did not timely file an application for a 2008 Alaska Permanent Fund dividend. His late application was denied, and Mr. T filed a timely appeal and requested a hearing by correspondence. The case was referred to the Office of Administrative Hearings.

Because Mr. T did not file a timely application, he is not eligible for the 2008 dividend. The division’s decision is therefore sustained.

II. Facts

In 2007 and 2008, A R. T lived and worked in no name city. He filled out his application for the 2008 dividend on March 28, 2008. However, Mr. T forgot to mail the application prior to the deadline, and it was not received by the Permanent Fund Dividend Division until April 18, 2008.

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 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 by specified evidence that an application was timely filed: either a mailing receipt, or a mailing

¹ A typographical error in the second sentence has been corrected.
² AS 43.23.011(a).
³ AS 43.23.055(2).
⁴ 15 AAC 23.103(a).
⁵ 15 AAC 23.103(h).

return receipt documenting delivery to the department or other evidence of receipt by the department.⁶

Mr. T candidly admits that he forgot to mail his application on time. Unfortunately, the division's regulations do not allow an individual who has failed to mail or otherwise to file a timely application to later submit a request to reapply, except in three situations: (1) the applicant was a minor or a ward of the state; (2) the applicant was disabled as defined in AS 43.23.095, at the time the application;⁷ or (3) the applicant was in the military and eligible for hostile fire or imminent danger pay.⁸ Mr. T does not claim that any of these exceptions applies, and therefore neither the division nor the administrative law judge has authority to award him a 2008 dividend.

IV. Conclusion

Under the statutes written by the legislature, Mr. T's late application for a 2008 dividend must be denied. The division's denial of his request to submit a late application is sustained.

DATED July 30, 2009.

Signed

Andrew M. Hemenway
Administrative Law Judge

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 Corrected Decision 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 30th day of July, 2009.

By: Signed

Signature
Andrew M. Hemenway

Name
Administrative Law Judge

Title

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

⁶ 15 AAC 23.103(h)(1), (2).

⁷ 15 AAC 23.133(b), (d)

⁸ AS 43.23.011(b), (c).