

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

IN THE MATTER OF)
)
 B. D.)
)
2008 Permanent Fund Dividend)

Case No. OAH 09-0172-PFD
Agency Case No. 2008-064-8672

DECISION

I. Introduction

B. D. applied for a 2008 permanent fund dividend. The Permanent Fund Dividend Division (“the division”) determined that Mr. D. was not eligible, and it denied the application initially and at the informal appeal level. Mr. D. requested a formal hearing by written correspondence only. Review of the entire record and due deliberation supports the conclusion that Mr. D. is not eligible for a 2008 dividend.

II. Facts

The division received Mr. D.’s application on December 9, 2008 in an envelope that was postmarked on December 5, 2008. Mr. D. asserts that he also mailed an application during the 2008 application period, but that it got lost in the mail. Mr. D. did not obtain a mailing receipt or use certified mail to send the first application. The division has searched its records and found no evidence that it received the first application from Mr. D. during the application period.

III. Discussion

With certain exceptions that do not apply to this case, applications for permanent fund dividends must be filed between January 2 and March 31 of the dividend year.¹ It is the applicant’s responsibility to ensure that an application is timely delivered to the department.²

This case is governed specifically by 15 AAC 23.103(h), which reads:

If an individual has timely filed an application but the department does not have that application on file, the individual may submit a request to reapply on or before December 31 of the dividend year. A request to reapply must be accompanied by one of the following forms of evidence that an application was timely filed with the department:

- (1) a mailing receipt;
- (2) a mailing return receipt documenting delivery to the department or other evidence of receipt by the department; or

¹ AS 43.23.011.

² 15 AAC 23.103(g).

- (3) repealed 1/1/2006;
 - (A) repealed 1/1/99;
 - (B) repealed 1/1/99;

(4) a copy of the computer-generated page containing the permanent fund dividend confirmation number received by the applicant after completing the online filing process.

In his formal hearing request, Mr. D. wrote,

All of my other ones were all “delivered application” were all on time. Accept this one in which it was lost in the mail. I guess I should have got it sent certified mail. My fault in which I didn’t. But not sending in the application and not receiving a PFD would be dumb. Who wouldn’t sent it in to get money from the state for being a resident of the State of Alaska.

It is possible that Mr. D. did mail an application during the application period, and that it was lost in the mail. As Mr. D. points out, it is reasonable to expect that an Alaska resident would submit an application if the person was eligible. On the other hand, many people intend to apply but simply forget.

When the division does not have an application on file for someone, the law requires the person to provide proof of mailing or online application in one of the specified forms: a mailing receipt, a certified mail return receipt or proof of delivery, or an online confirmation number. Although it is possible that Mr. D. did mail an application, he is unable to provide one of the required forms of proof that he applied on time.

IV. Conclusion

Because he did not provide proof of timely filing in one of the required forms, Mr. D. is not entitled to reapply after the application period has ended. The decision of the Permanent Fund Dividend Division to deny the application of B. D. for a 2008 dividend is AFFIRMED.

DATED this 1st day of July, 2009.

By: Signed _____
DALE WHITNEY
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 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 30th day of July, 2009.

By: Signed
Signature
Dale Whitney
Name
Administrative Law Judge
Title

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