

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

IN THE MATTER OF)
)
 C. D.)
) Case No. OAH 09-0280-PFD
)
2008 Permanent Fund Dividend)

DECISION

I. Introduction

C. D. timely 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. At Mr. D.’s request, a formal hearing was held on June 22, 2009. Mr. D. appeared by telephone. PFD Specialist Kim Colby represented the division.

Because Mr. D. had severed his Alaska residency before his date of application, Mr. D. is not eligible for a 2008 dividend.

II. Facts

The events of this case were precipitated by Mr. D.’s mother passing away on September 3, 2006. About a year later, Mr. D. was no longer able to afford his apartment in Alaska. Mr. D. moved to Washington State to live with his sister on October 10, 2007. A month later he had all of his belongings shipped to Washington. After moving to Washington, Mr. D. worked as a plumbing trainee for Rescue Rooter, but he testified that this was not a permanent job, merely training. He worked for about three months, but unfortunately was injured and has not been employed since then.

Mr. D. applied for a 2008 dividend using an online application form on February 13, 2008. Mr. D. indicated that he was out of state at the time, and was prompted to complete a supplemental schedule, on which he answered “no” to a question asking whether he was returning to Alaska to remain indefinitely. In his request for an informal hearing, Mr. D. wrote,

At the time of filling out the application, I was not sure how I could afford to live in Alaska and at the time it didn’t look like I could. Due to medical reasons I have to go back to Alaska, because I cannot afford medical expenses here in Washington.

I receive free medical care at the Alaska Native Medical Center and plan to move back to Alaska for good. At the time of leaving Alaska my Mom passed away and I couldn’t afford to pay for rent, food, utilities. I plan to move in with my best friend in Anchorage. I never claimed residence or registered to vote in Washington because I wasn’t sure if I could stay there. Also I moved to Alaska in 1977 and always thought of Alaska as my home.

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

I wasn't sure at the time where I was going to live but now I plan to move back to Alaska for good. The reason I had to leave Alaska was because my mom died and at the time I didn't have anywhere else to go but to my sisters. I didn't claim resident anywhere else, I didn't register to vote anywhere else, I qualified for the previous dividend, I wasn't out of the state for more than two years.

At the time of his application, Mr. D. did not have any job prospects in Alaska. A friend of his has since become a night manager at T.G.I. Friday's and told Mr. D. that there may be a job available if he returns to Alaska. At the time of the hearing, Mr. D. was still living in Washington, but wanted to return to Alaska and testified that he would do so if he received a 2008 dividend.

III. Discussion

In order to qualify for a permanent fund dividend, a person must be an Alaska resident at the date of application.¹ A person who leaves Alaska remains an Alaska resident so long as the person intends to return to Alaska to remain indefinitely and make a home.² A person absent under circumstances inconsistent with the intent to return to Alaska to remain indefinitely is no longer an Alaska resident.³

Mr. D. didn't register to vote in Washington or claim residency there, but he did move away from Alaska. At the time he applied for a 2008 dividend, Mr. D. was living in another state and he did not intend to return to Alaska. While there was a possibility that he might move back to Alaska, at the time he applied Mr. D. was not sure what he was going to do, or whether he would ever return to the state.

The circumstances under which Mr. D. left Alaska were unfortunate, and his ability to return has been limited by circumstances beyond his control. But under the law, a person who takes all his belongings, moves away from Alaska, and is not sure if he will move back to the state is no longer a resident and is not eligible for dividends. This is true even if the person maintains official ties to the state, such as an Alaska driver's license or registration to vote.

¹ AS 43.23.005(a)(2).

² AS 01.10.055(c).

³ *Id.*

IV. Conclusion

Mr. D. was not an Alaska resident at the time he applied for a 2008 permanent fund dividend and the division was correctly applying the law when it made the decision to deny Mr. D.'s application. The division's decision is AFFIRMED.

DATED this 9th day of September, 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 9th day of October, 2009.

By: Signed _____
Signature
Terry L. Thurbon for Dale A. Whitney
Name
Administrative Law Judge
Title