

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

In the Matter of	)	
	)	
J. A. B.	)	OAH No. 09-0417-PFD
	)	Agency No. 2008-061-9483
<u>2008 Permanent Fund Dividend</u>	)	

**DECISION**

**I. Introduction**

J. A. B. timely applied for a 2008 permanent fund dividend (PFD). The Permanent Fund Dividend Division (“division”) determined that he was ineligible and denied his application initially and at the informal appeal level. Mr. B. requested a formal hearing by correspondence. The division’s denial is affirmed because Mr. B. moved out of state before his application was complete and as a result he was not considered an Alaska resident during the entire qualifying year and on the date of application for the 2008 dividend.

**II. Facts**

Mr. B. originally moved to Alaska in 1979.<sup>1</sup> According to the division, Mr. B. filed for and received dividends from 1982 through 1994. He did not file again until 2000, when his application was denied because he did not provide all the necessary information. His next application was in 2007, but he was denied due to incarceration in 2006.<sup>2</sup>

Mr. B. timely filed for a 2008 PFD in an application he signed on March 29, 2008.<sup>3</sup> On August 8, 2008, the division sent him a letter at his Anchorage address stating that it could not process his 2008 PFD application without additional information, which the division said must be submitted by September 7, 2008.<sup>4</sup>

Mr. B. did not submit additional information by the due date. On October 27, 2008, Mr. B. sent an email to the division after he checked on the status of his application and found out it was “undetermined.”<sup>5</sup> He asked that the division send him its request for information again.<sup>6</sup> On November 3, 2008,<sup>7</sup> division staff sent Mr. B. a blank adult supplemental schedule, which he

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<sup>1</sup> Exh. 6 at pg. 3.  
<sup>2</sup> Formal Hearing Position Statement at pg. 1.  
<sup>3</sup> Exh. 1.  
<sup>4</sup> Exh. 2.  
<sup>5</sup> Exh. 4.  
<sup>6</sup> *Id.*  
<sup>7</sup> *Id.*

completed and returned on November 25, 2008.<sup>8</sup> This additional information indicates that Mr. B. moved from Alaska to Minnesota on May 6, 2008, and that he does not intend to return to Alaska to remain indefinitely.<sup>9</sup>

The division denied Mr. B.'s 2008 PFD application on December 26, 2008, for the reason that he had not "demonstrated at all times during 2007 through the date of application the intent to remain an Alaska resident indefinitely."<sup>10</sup> Mr. B. requested an informal appeal, believing the division denied his application on the basis that he did not live in Alaska during all of 2007.<sup>11</sup> On June 30, 2009, the division issued an Informal Appeal Decision affirming its earlier denial of Mr. B.'s application for a 2008 PFD.

Mr. B. requested a formal hearing on August 3, 2009. In a notice dated August 19, 2009, he and the division were given until September 20, 2009, to file any additional documents or information they wanted to be considered. The division submitted its formal hearing position statement on September 4, 2009. Mr. B. did not file any supplemental information.

### **III. Discussion**

The qualifying year for the 2008 PFD is 2007.<sup>12</sup> To be eligible for a permanent fund dividend, a person must be a state resident during the entire qualifying year and on the date of application.<sup>13</sup> According to PFD regulation 15 AAC 23.993(b), the date of application has a specific definition:

For purposes of AS 43.23.005(a) and this chapter, "date of application" means the date on which an application for a dividend that was timely filed is complete; in this subsection, an application is

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"complete" if it provides all information that is required by AS 43.23 and this chapter, including supplemental or additional information required by or requested under 15 AAC 23.173, that supports the applicant's claim of residence, physical presence in the state, and eligibility for the dividend.

This regulation establishes that the "date of application" is not the day the person submits an application, but rather it is the last day on which a person submits necessary supporting

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<sup>8</sup> Exh. 6.  
<sup>9</sup> Exh. 6 at pgs. 1 & 3.  
<sup>10</sup> Exh. 7 at pg. 1.  
<sup>11</sup> Exh. 8 at pg. 2.  
<sup>12</sup> AS 43.23.095(6).  
<sup>13</sup> AS 43.23.005(a)(2)-(3) (emphasis added).

information.<sup>14</sup> Mr. B. did not submit his supplemental schedule until November 25, 2008, so under the above regulation, this was the date of his application.

A person who leaves Alaska is no longer an Alaska resident if the person is absent under circumstances that are inconsistent with the intent to return to Alaska to remain indefinitely and make a home.<sup>15</sup> Mr. B. stated he moved from Alaska on May 6, 2008, and that he does not intend to return to remain indefinitely. His move was completed before he submitted his supplemental schedule and his application was complete. As a result, he was not an Alaska resident on the date of his application and he is therefore not eligible for a 2008 PFD.

#### **IV. Conclusion**

Mr. B. was not an Alaska resident on his date of application. He therefore is not eligible for a 2008 PFD and the decision of the division to deny his application is AFFIRMED.

DATED this 18th day of December, 2009.

By: Signed  
Kay L. Howard  
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 Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 15<sup>th</sup> day of January, 2010.

By: Signed  
Signature  
Kay L. Howard  
Name  
Administrative Law Judge  
Title

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

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<sup>14</sup> 15 AAC 23.993(b) was amended in 2009, but the above language was in effect for the 2008 PFD and applies to Mr. Bisson's appeal.

<sup>15</sup> AS 43.23.095(7); AS 01.10.055(c).