

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

IN THE MATTER OF	)	
	)	Case No. OAH 09-0486-PFD
I. S.	)	Agency No. 2008-052-7094
	)	
<u>2008 Permanent Fund Dividend</u>	)	

**DECISION AND ORDER**

**I. Introduction**

I. S. timely applied for a 2008 permanent fund dividend. The Permanent Fund Dividend Division (Division) determined that Ms. S. was not eligible, and it denied the application initially and at the informal appeal level. Ms. S. requested a formal hearing by correspondence. Administrative Law Judge Mark T. Handley was assigned to hear the appeal. Peter F. Scott represented the PFD Division. The Division timely filed the agency record and a position paper.

Because Ms. S. did not meet her burden of proof to show that she was an Alaska resident before 2007, the Division's decision is affirmed.

**II. Facts**

Ms. S. began working seasonally in Sitka, Alaska in 2004.<sup>1</sup> In her request for a formal hearing, Ms. S. explained that she lived in employer provided housing while she worked seasonally in Alaska until she moved to Juneau Alaska in 2007. Ms. S. explained that she and her husband bought a house in Washington in 2005.<sup>2</sup> Ms. S. stated to a Division employee that they sold this property to her daughter who lives in Florida.<sup>3</sup> Ms. S. did not have reported earnings in Alaska for the fourth quarter of 2006 or the first quarter of 2007.<sup>4</sup> Ms. S. collected unemployment benefits from the end of 2006 to the beginning of 2007.<sup>5</sup> Ms. S. admits that she did not start working for her Sitka employer, who provided her with housing in 2007, until March first of that year.<sup>6</sup> Ms. S. admits that she was living in her daughter's house in Washington that she and her husband had owned from January 5, 2007 to March 1, 2007.<sup>7</sup>

Based on the evidence in the record, I find that it is more likely than not that Ms. S. lived in Washington at the home that she and her husband had purchased in 2004 for most of 2005 and 2006

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<sup>1</sup> Exhibit 14, page 2-5 & Exhibit 9, page 2.

<sup>2</sup> Ms. S.'s Request for a Formal Hearing at exhibit 8, page 2-4.

<sup>3</sup> Division's position paper at page 4.

<sup>4</sup> Exhibit 9, page 2.

<sup>5</sup> Exhibit 14, page 2.

<sup>6</sup> Exhibit 14, page 2 & Exhibit 10, page 1- 8.

that she did not move to Alaska with the intent to spend most of her time in Alaska until March 1, 2007.

### **III. Discussion**

A person cannot become an Alaska resident while living outside Alaska. This requirement is found in Alaska Regulation 15 AAC 23.143(b).

A “state resident” is someone who is physically present in Alaska with the intent to remain indefinitely under the requirements of AS 01.10.055. Under AS 01.10.055, a person becomes an Alaska resident by being physically present in the state with the intent to remain indefinitely and to make a home in the state. Working seasonally in Alaska in employer provided housing, while planning to spend most of one’s time outside in a home that is located in another state, is not being present in Alaska with the intent to remain indefinitely and to make a home in Alaska.

Before March of 2007, Ms. S. was a resident of Washington State, where she had lived most of the time since 2004 in the house she had purchased with her husband. Before March of 2007, Ms. S. lived in Alaska for only a few months each year, during the tourist season. For those few month, Ms. S. lived in employer provided housing. Ms. S. was not an Alaska resident until she moved to Alaska with the intent to spend the majority of her time in Alaska and to make Alaska her year-round home. This did not happen before the beginning of the 2008 PFD qualifying year, which was 2007.

### **IV. Conclusion**

The Division was correctly following the law when it made the decision to deny Ms. S.’s application. The decision of the Permanent Fund Dividend Division to deny the application of I. S. for a 2008 permanent fund dividend is AFFIRMED.

DATED this 25th day of November, 2009.

By: Signed  
Mark T. Handley  
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 22<sup>nd</sup> day of December, 2009.

By: Signed  
Signature  
Mark T. Handley  
Name  
Administrative Law Judge  
Title

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