

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

IN THE MATTER OF)
)
 A. C.)
) Case No. OAH 09-0519-PFD
)
2008 Permanent Fund Dividend)

DECISION

I. Introduction

A. C. timely applied for a 2008 permanent fund dividend. The Permanent Fund Dividend Division (“the division”) determined that Ms. C. was not eligible, and it denied the application initially and at the informal appeal level. At Ms. C.’s request, a formal hearing was held on November 9, 2009. Bethany Chase represented the division. Ms. C. did not appear or show cause for her failure to appear; this decision is therefore based on the record in accordance with 15 AAC 05.030(j).

Ms. C. was absent from Alaska for more than 120 days in the qualifying year in addition to the time she was receiving postsecondary education on a full-time basis, and her total absence during the qualifying year was in excess of 180 days. Ms. C. is not eligible for a 2008 dividend.

II. Facts

According to the division, Ms. C. was absent from Alaska for 235 days during 2007, the qualifying year for a 2008 dividend. For 83 of these days Ms. C. was receiving postsecondary education on a full-time basis. For the remaining 152 days, Ms. C. was a part-time student or was not in school. Ms. C. has not disputed these assertions. An education verification form from the P. C. C. in Arizona shows that Ms. C. was a part-time student from January 16, 2007, through May 15, 2007, and that she was a full-time student August 22, 2007, through December 16, 2007.¹

III. Discussion

In order to qualify for a permanent fund dividend, a person must be physically present in Alaska all through the entire qualifying year, except for certain types of absences allowed by AS 43.23.008.² These exceptions include an absence of up to 180 days for any reason consistent with continuing Alaska residency; this absence, however, may not be combined with any other kind of absence.³ In the alternative, applicants may be absent for any number of days they are receiving

¹ Exhibit 5, page 6.

² AS 43.23.005(a)(6).

³ AS 43.23.008(a)(17).

postsecondary education on a full-time basis, in addition to 120 days of absence for any other reason consistent with Alaska residency.⁴ There are also a number of other kinds of allowable absences that do not apply to this case.

Although Ms. C. was attending college for most of the time she was absent from the state, a person must be attending school full-time in order for the absence to be allowable. Time spent out of the state as a part-time student is not allowable, except as part of the 120 days in addition to full-time education, or 180 days not combined with any educational absences.

IV. Conclusion

Ms. C. was absent for than 180 days during the qualifying year, and she was absent for more than 120 days in addition to the time she was a full-time student. Ms. C. is therefore not eligible for a 2008 permanent fund dividend.

DATED this 16th day of December, 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 14th day of January, 2010.

By: Signed
Signature
Dale Whitney
Name
Administrative Law Judge
Title

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

⁴ AS 43.23.008(a)(1), (17)(B).
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