

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

IN THE MATTER OF)
)
 L. C. and his child)
 B. L. C.)
) Case No. OAH 09-0614-PFD
2009 Permanent Fund Dividend)

DECISION

I. Introduction

L. C. timely applied for 2009 permanent fund dividends for himself and on behalf of his child B. L. C. The Permanent Fund Dividend Division (“the division”) determined that the applicants were not eligible, and it denied the application initially and at the informal appeal level. At Mr. C.’s request, a formal hearing was held on December 21, 2009. Mr. C. appeared by telephone. PFD Specialist Peter Scott represented the division.

Because Mr. C. did not file his application before the end of the 2009 application period, he is not eligible for a 2009 dividend. B. will be entitled to apply for his dividend when he reaches the age of eighteen.

II. Facts

Although he did not leave the state, Mr. C. left his home in Wasilla and went to Fairbanks near the end of the application period to check out a possible employment opportunity. Mr. C. filled out paper 2009 PFD applications before he left, but he relied on a babysitter to mail the forms for him. Unfortunately, the babysitter did not mail the applications until well after the end of the application period, and the division received them on May 4, 2009.

III. Discussion

With certain exceptions that do not apply to this case, applications for permanent fund dividends must be filed between January 1 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(g), which reads in part:

It is an individual's responsibility to ensure that an application is timely delivered to the department. A paper application must be timely delivered to the department during normal business hours or delivered to the post office in sufficient time to be postmarked before the

¹ AS 43.23.011.

² 15 AAC 23.103(g).

end of the application period. The department will deny a paper application postmarked after the application period, unless the individual provides the department with an official statement from the United States Postal Service or a foreign postal service that describes the specific circumstances under which the postal service incorrectly posted the individual's application or caused a delay in posting.

This law does not provide discretion for the division to vary it in unusual cases or extenuating circumstances. Although he relied on a babysitter, the law makes clear that responsibility for mailing the applications remained with Mr. C. The law specifically states that “the department will deny a paper application postmarked after the application period.”

A different provision of the law, 15 AAC 23.133(b), B. may apply for his 2009 dividend as soon as he turns eighteen, but he must apply before he reaches the age of twenty. Mr. C. should remind B. to apply for his 2009 dividend as soon as possible after B.'s eighteenth birthday.

IV. Conclusion

Mr. C. did not apply for 2009 dividends during the 2009 application period, and he was not disabled or serving in the military during the application period. The division was correctly applying the law when it made the decision to deny the applications of L. and B. C. for 2009 dividends. B. may apply for his 2009 dividend as soon as he reaches the age of eighteen, so long as he does so before reaching the age of twenty.

DATED this 31st 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 28th 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.]