

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

IN THE MATTER OF	)	
T C	)	Case No. OAH 11-0471-PFD
	)	Agency No. 2011-062-9998
	)	
<u>2011 Permanent Fund Dividend</u>	)	

**DECISION AND ORDER**

**I. Introduction**

T C timely applied for a 2011 permanent fund dividend. The Permanent Fund Dividend Division (Division) determined that Ms. C was not eligible, and it denied the application initially and at the informal appeal level. Ms. C requested a formal hearing. 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. The hearing was held on February 2, 2012. The record in this appeal closed at the end of the hearing.

Because Ms. C did not meet her burden of proof to show that she was an Alaska resident before 2010, the Division's decision is affirmed.

**II. Facts**

Ms. C was an Arizona resident working and living in Arizona at the beginning of 2009. She became engaged to an Alaska resident and decided to move to Alaska to live with him. Ms. C flew up to Alaska and stayed with her fiancé from October 10, 2009 through October 24, 2009.

Ms. C gave her Arizona employer notice that she would be leaving on January 8, 2010. Ms. C kept her job in Arizona throughout 2009 and until January 8, 2010 as planned. Ms. C's apartment lease had run out at the end of December of 2009, but she move out before the end of the month. Ms. C moved some of her household goods to Alaska and left some in storage in Arizona. When she moved out of her apartment, Ms. C stayed with a friend in Arizona and then with her daughter before she flew to Alaska on January 16, 2010. Ms. C filed a 2009 Arizona resident tax return. In the summer of 2010 Ms. C and her husband flew to Arizona and drove back in her car with a trailer and the rest of her household goods. Ms. C filed a 2010 Arizona nonresident tax return. Ms. C did not register to vote in Alaska, change her vehicle registration to Alaska or get an Alaska drivers' license until after she moved to Alaska in 2010. <sup>1</sup>

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<sup>1</sup> Division's position paper at page 4.

Based on the evidence in the record, I find that it is more likely than not that Ms. C did not move to Alaska with the intent to live in Alaska indefinitely until January 16, 2010.

### **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. Coming to Alaska for a short visit, while planning to return to a home and a job 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. Plans to move to Alaska at some time after the return to the out-of-state home and job, do not make the temporary visit a change of residency.

Before January of 2010, Ms. C was a resident of Arizona. Before January of 2010, Ms. C had only visited Alaska for only for two weeks in 2010. After those two weeks, Ms. C returned to her home and her job in Arizona. Ms. C was not an Alaska resident until she moved to Alaska after quitting her full-time Arizona job and moving out of her Arizona home. This did not happen before the beginning of the 2011 PFD qualifying year, which was 2010.

### **IV. Conclusion**

The Division was correctly following the law when it made the decision to deny Ms. C’s application. The decision of the Permanent Fund Dividend Division to deny the application of T C for a 2011 permanent fund dividend is AFFIRMED.

DATED this 17<sup>th</sup> day of February, 2012.

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 20<sup>th</sup> day of March, 2012.

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

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