

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

IN THE MATTER OF)	
K C)	OAH No. 12-0089-PFD
)	Agency No. 2011-067-7081
<u>2011 Permanent Fund Dividend</u>)	

DECISION & ORDER

I. Introduction

This case is K C's appeal of the denial of his late filed 2011 permanent fund dividend (PFD) application. Mr. C argued that his late filing should be excused because he was deployed with the Navy in a submarine during the application period and unable to file a PFD application.

The Permanent Fund Dividend Division (Division) determined that Mr. C was not eligible, and it denied the application initially and at the informal appeal level. Mr. C requested a formal hearing. The hearing was held on May 22, 2012.

Mr. C participated for his hearing by phone. Administrative Law Judge Mark T. Handley heard the appeal. The record closed at the end of the hearing. The administrative law judge finds the Division correctly denied Mr. C's 2011 PFD application because the Division is not allowed to accept a late filed PFD application unless the applicant was disabled or in certain types of military pay status during the application period, and Mr. C admits that these exceptions do not apply to his situation.

II. Facts

Mr. C filed a paper 2011 PFD application. Mr. C dated his signature on this re-application July 24, 2011.¹ Mr. C explained he was not able to file a timely application because he was underwater and in a submarine on active duty with the U.S. Navy during the application period. Mr. C was only allowed limited access to outside communications during this deployment. He was not provided with access to the Internet, which would have allowed him to apply electronically. For previous PFD's Mr. C's parent's had applied for him, but Mr. C did not think he should ask them this time because of recent disagreements with them. Mr. C thought the Division would accept a late PFD application filed after his deployment ended if he provided a letter an official letter explaining his situation. Mr. C provided the Division with an official letter from his commanding officer.²

¹ Ex. 1.

² Exhibit 2, page 1.

Mr. C admits that he was not disabled or receiving hostile fire or imminent danger pay during the application period. Instead, Mr. C argues that the exception allowing military personnel to file late PFD applications if they are in hostile fire or imminent danger pay status during the PFD application period should be broadened to include other situations, like his, where military duty prevents filing during the application period.³

III. Discussion

For each dividend year, there is a three-month application period that starts on January 1, and ends on March 31 of the relevant year.⁴ The applicant has the responsibility of ensuring that his application is postmarked or received by this deadline.⁵

The laws regarding permanent fund dividends do not allow the Division to make exceptions to the rules regarding filing of applications, even in particularly compelling cases. There are only two types of exceptions for the strict requirement that PFD applications be filed within the application period. The first is the exception is for Alaskans who are disabled due to a medical condition.⁶ This exception does not apply to this case. The second is for active duty military personnel, but this exception is limited to those in hostile fire or imminent danger pay status during the application period, which also does not apply to Mr. C.⁷ For military personnel and other Alaskans who are going to be unable to file for themselves during the application period are required to have another adult file for them using a power of attorney.⁸ Unfortunately, Mr. C did not understand that he would need to do this.

Having reached the finding that Mr. C did not meet the timely filing requirements of 15 AAC 23.103, the only possible result of this case is to conclude that Mr. C's 2011 PFD re-application must be denied.

IV. Conclusion

IT IS HEREBY ORDERED that the application of K C for a 2011 permanent fund dividend be DENIED.

DATED this 10th day of October, 2012.

By: Signed
Mark T. Handley
Administrative Law Judge

³ Recording of Hearing- Testimony of Mr. C.

⁴ Alaska Statute 43.230011(b) & (c).

⁵ Alaska Regulation 15 AAC 23.103(g).

⁶ See Alaska Regulation 15 AAC 23.133(d).

⁷ Alaska Statute 43.230011(a)

⁸ See Alaska Regulation 15 AAC 23.123.

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 AS 25.27.210 and Alaska Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 13th day of November, 2012

By: Signed
Signature
Angela M. Rodell
Name
Deputy Commissioner
Title

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