

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

In the Matter of:

K S

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OAH No. 12-0478-PFD  
DOR No. 2012-050-2733

**DECISION**

**I. Introduction**

The Permanent Fund Dividend Division denied K S' application for a 2012 Alaska Permanent Fund dividend on the grounds that: (1) she was "unallowably absent from Alaska for the purpose of obtaining full-time, permanent employment in Colorado" prior to her date of application; (2) she maintained her principal home outside of Alaska, while unallowably absent, prior to her date of application; (3) she did not demonstrate the "intent to remain in Alaska indefinitely during and subsequent to the qualifying year and at her date of application; and (4) she was not a resident of Alaska during all of the qualifying year and at her date of application.<sup>1</sup> Ms. S filed an appeal, and the assigned administrative law judge conducted a telephonic hearing at which Ms. S testified and Pete Scott represented the division.

Because Ms. S maintained her principal home in another state prior to her date of application, she is ineligible for the 2012 dividend. The division's decision is therefore sustained.

**II. Facts**

Prior to September, 1999, K S lived in Colorado, where she owned a house in Colorado Springs and worked for No Name International. In September, 1999, when she was 56, Ms. S accepted a transfer by her employer and moved to her new position in Anchorage.<sup>2</sup> Ms. S retained ownership of the house in Colorado Springs, which was occupied by her son.<sup>3</sup> Ms. S became a resident of the state in 1999 and received regular Alaska Permanent Fund dividends from 2001 through 2011.<sup>4</sup>

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<sup>1</sup> Ex. 5, p. 1.

<sup>2</sup> See Ex. 7, pp. 2-3.

<sup>3</sup> See Ex. 3, p.2; Ex. 6, p. 2.

<sup>4</sup> See Ex. 1, p. 4.

In October, 2011, Ms. S was laid off from her position in Anchorage.<sup>5</sup> Ms. S was living in a partially-furnished apartment; she gave away her household goods<sup>6</sup> and on January 12, 2012, she departed Alaska for an extended visit with her family in Colorado, where she had not visited for about three years.<sup>7</sup> While in Colorado, she lived in the house she owns in Colorado Springs, sharing it with her son. Ms. S hoped that she would be rehired when a freeze on hiring was lifted, and expected that when she returned to Alaska she would be able to move back into her prior rented premises,<sup>8</sup> or another unit owned by the same landlord.<sup>9</sup> She has been actively seeking work in Anchorage, and has had a couple of telephone interviews, but has not yet obtained a position.<sup>10</sup>

### III. Discussion

The division identified four grounds for denying Ms. S' dividend. One was that she maintained her principal home outside of Alaska prior to her date of application. The applicable regulation is 15 AAC 23.143(d)(1), which provides:

(d) An individual is not eligible for a dividend if, at any time from January 1 of the qualifying year through the date of application, the individual has

(1) maintained the individual's principal home in another country or state, regardless of whether the individual spent a majority of time at that home, except while absent for a reason listed

(A) in AS 43.23.008(a)(1)-(3), (9)-(11), or (16); or

(B) in AS 43.23.008(a)(13), if the eligible resident whom the individual accompanies is absent for a reason listed in (A) of this paragraph.

Ms. S was not absent for any of the reasons listed in AS 43.23.08(a)(1)-(3), (9)-(11), (13) or (16). The qualifying year for the 2012 dividend is 2011, and Ms. S' date of application is March 21, 2012. Thus, pursuant to 15 AAC 23.143(1)(1) if, at any time from January 1, 2011, through March 21, 2012, she maintained her principal home in another state, she is ineligible for the 2012 dividend.

From approximately January 12 through March 21, 2012, and continuing thereafter through at least the hearing date (November 20, 2012), Ms. S was living in a house that she

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<sup>5</sup> Ex. 6, pp. 3-4. At the time, Ms. S' employer was No Name Services, which had obtained the contract previously held by her prior employer. *Id.*; Ex. 3, p. 2; Testimony of K. S.

<sup>6</sup> Ex. 6, p. 3.

<sup>7</sup> Ex. 3, p. 2; Ex. 6, p. 2.

<sup>8</sup> Ex. 3, p. 2.

<sup>9</sup> See Ex. 6, p. 2 ("My old landlord will lease me a place to stay.").

<sup>10</sup> Ex. 6, p. 2.

owned in Colorado Springs, Colorado.<sup>11</sup> She had no household goods in Alaska,<sup>12</sup> had no family home in Alaska, and had no rental or ownership interest in any residential premises in Alaska. She was not transient and did not have a recreational vehicle or other mobile premises. Her principal home during that period of time was the house that she owned and was living in, in Colorado.

#### **IV. Conclusion**

K S maintained her principal home in Colorado beginning in January, 2012, through her date of application. She was not absent from Alaska for a reason listed in AS 43.23.008(a)(1)-(3), (9)-(11), (13) or (16). She is therefore ineligible for the 2012 Alaska Permanent Fund dividend without regard to her status as a resident. The division's decision is therefore sustained, and her application is denied.

DATED January 17, 2013

Signed  
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Andrew M. Hemenway  
Administrative Law Judge

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<sup>11</sup> That Ms. S is the owner of the premises she occupies distinguishes this case from In Re S.M. et al., OAH No. 11-0394-PER (Commissioner of Revenue 2012), in which an Alaska resident was temporarily occupying premises in another state owned by a family member, while undergoing medical treatment.

<sup>12</sup> "Evidence relating to the location of a person's household goods is relevant (but not dispositive) to the determination of the location of that person's principal home." In Re S.M. et al., at 3, OAH No. 11-0394-PER (Commissioner of Revenue 2012), *citing* In Re L. M., at 4, OAH No. 10-0065-PFD (Commissioner of Revenue 2010); In Re G.&E. L. M., OAH No. 09-0498-PFD, at 3, (Commissioner of Revenue 2009); In Re. K.G., at 4, OAH No. 09-0257-PFD (Commissioner of Revenue 2009); In Re W. & K. C., at 2-3, OAH No. 06-0352-PFD (Commissioner of Revenue 2006).

## 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 14<sup>th</sup> day of February, 2013.

By: Signed  
Signature  
Andrew M. Hemenway  
Name  
Administrative Law Judge  
Title

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