

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

In the Matter of:)
)
 X N)
) OAH No. 14-0532-PFD
2013 Permanent Fund Dividend) Agency No. 2013-067-0182

DECISION

I. Introduction

X N applied for a 2013 Permanent Fund Dividend (PFD).¹ The Permanent Fund Dividend Division (division) denied his application because it was postmarked after the application filing deadline.² Mr. N requested a formal hearing after completing the informal appeal process.

A hearing was held on May 12, 2014. Mr. N appeared in person and testified in support of his appeal. Because Mr. N's application was late, and because none of the exceptions for allowing a late application apply here, the division properly denied his PFD application.

II. Facts

The relevant facts are not in dispute. Mr. N signed his application on March 27, 2013, and placed it in his apartment complex's outgoing mailbox on that same day.³ It was postmarked by the US Post Office on April 3, 2013, and received by the division on April 5.⁴

Mr. N testified that he was told by his landlady that the apartment complex had experienced difficulties with outgoing mail. He also stated that he asked at the Post Office about why his application had not been postmarked sooner, but did not get an answer.⁵

III. Discussion

A PFD application must be filed during the application period which ends on March 31 of each dividend year.⁶ It is the responsibility of the individual applicant to ensure that

¹ Exhibit 1.

² Exhibit 2.

³ Exhibit 1, page 1; Exhibit 3, page 2; Testimony of Mr. N.

⁴ Exhibit 1, page 3.

⁵ Exhibit 3, page 2.

⁶ Alaska Statute 43.23.011(a). *See* Alaska Regulation 15 AAC 23.103(a) ("An application mailed before, but postmarked after the end of the application period, is not timely filed.")

applications are delivered to the PFD office or postmarked on or before March 31.⁷ Alaska regulations require the Division to deny an application postmarked after March 31 unless the individual provides the department with an official statement from the United States Postal Service or 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.^[8]

Mr. N did not ensure that his application was postmarked by March 31. Nor was he able to obtain a statement from the postal service explaining why there was a delay in placing a postmark on the application.

While Mr. N argues that the delay was not his fault and was beyond his control, the delay was also not the division's fault or within the division's control. It is the applicant's responsibility to ensure the envelope is postmarked. Even placing the application in a U.S. Post Office mail receptacle outside the Post Office will not always ensure a timely postmark.⁹

One exception to this rule applies where another government agency was acting as a postal service and the applicant provides a statement from that agency explaining the delay in posting.¹⁰ This exception does not apply here because Mr. N's apartment mailbox is not a governmental equivalent of the postal service, and because he has no written statement from anyone explaining the reason for the delay.

The only other exception to the strict requirement that applications be filed on time applies to members of the armed forces who are eligible for hostile fire or imminent danger pay at the time the application was due.¹¹ This exception also does not apply because Mr. N was not serving in the armed forces at the time his application was due.

IV. Conclusion

Mr. N placed his application in the outgoing mailbox in time for it to be picked up and postmarked before the end of the application period. Unfortunately, that did not occur. In this

⁷ 15 AAC 23.103(g).

⁸ 15 AAC 23.103(g). See *In re T.A.P.*, OAH No. 09-0652-PFD (Commissioner of Revenue 2010), at 2. Other OAH decisions regarding PFD applications may be found on line at <http://aws.state.ak.us/officeofadminhearings/Category.aspx?CatName=PFD>.

⁹ See *In re J.W.*, OAH No. 11-0327-PFD (Commissioner of Revenue 2011); *In re C.E.R.*, OAH No. 09-0483-PFD (Commissioner of Revenue 2010); *In re C.S.D.*, OAH No. 09-191-PFD (Commissioner of Revenue 2009).

¹⁰ *In re C.F.*, OAH No. 08-0324-PFD (Commissioner of Revenue 2008), at 3.

¹¹ AS 43.23.011(c).

situation, the applicable law gives the division no option other than to deny Mr. N's application as untimely. The division's decision is AFFIRMED.

Dated this 27th day of May, 2014.

Signed _____
Rebecca L. Pauli
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 23rd day of June, 2014.

By: *Signed* _____
Signature
Rebecca L. Pauli
Name
Administrative Law Judge
Title

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