

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

In the Matter of:)	
)	
T V. T)	OAH No. 14-1028-PFD
)	Agency No. 2013-067-2453/2471
<u>2013 Permanent Fund Dividend</u>)	

DECISION AND ORDER

I. Introduction

This case is T V. T's appeal of the denial of her application for a 2013 Alaska Permanent Fund Dividend (PFD). Ms. T timely applied for a 2013 PFD for herself and her child, M. Ms. T's application was denied by the Permanent Fund Dividend Division (Division) because she indicated that she had moved from Alaska with her son for financial reasons, and she did not indicate that she intended to return to and remain in Alaska indefinitely. She requested an informal appeal and was again denied. Ms. T then requested a formal hearing by correspondence.

Administrative Law Judge Mark T. Handley heard the appeal. PFD specialist Pete Scott represented the Division and filed a position paper. Ms. T filed a response to the Division's position paper. The record in this appeal closed on August 14, 2014.

Having reviewed the record and after due deliberation, the Administrative Law Judge concludes that Ms. T does not qualify for a 2013 dividend because she moved from Alaska under circumstances that were inconsistent with the intent to maintain Alaska residency before she filed her 2013 PFD application. Ms. T therefore lost her Alaska residency. Her child M is not eligible because he left with her and he does not have an eligible sponsor.

II. Facts

Ms. T was a resident of Alaska who qualified for the 2012 PFD.¹ Ms. T moved from Alaska in February of 2013, before she filed her 2013 PFD application. She left Alaska to work in Oregon and get away from M's father, who was stalking her, and because she wanted to further her education. Ms. T sold her belongings before she moved and did not keep a home in Alaska until she returned for seasonal employment in 2014.² From April 10, 2013 through June 6, 2013, Ms. T was a part-time student at the No Name of Portland in Oregon.³

¹ Exhibit 1.

² See Ms. T's August 13, 2014 response the Division's Position Statement.

³ Exhibit 1.

In her August 13, 2014 response to the Division's Position Statement, Ms. T wrote that she believed she should qualify for a 2013 PFD because she had returned to Alaska and had been present in Alaska in 2012, and was in Alaska in 2013 until February. Based on the evidence in the record, I find that during 2012, Ms. T was moved away from Alaska before she filed her 2013 PFD application under circumstances that were inconsistent with the intent to remain a resident of Alaska.

III. Discussion

To qualify for the 2013 PFD, an applicant must meet the eligibility requirements during all of 2012, the qualifying year for the 2013 PFD, and through the date of application. As applied to Ms. T's application, that means she must have been an Alaska resident on the date of her application.⁴ To be an Alaska resident, one must not claim residency in the other state, or be absent under circumstance that are inconsistent with the intent required to remain a resident of Alaska during an absence.⁵

In a formal hearing in an appeal of a PFD denial, the person who filed the appeal, in this case, Ms. T, has the burden of proving by a preponderance of the evidence that the denial is incorrect.⁶ Ms. T did not show by a preponderance of the evidence that she is eligible to receive her 2013 PFD. Ms. T admitted that she moved away from Alaska in February of 2013. The evidence in the record shows that Ms. T moved to Oregon for employment and to attend school part-time. The fact that she decided to move back to Alaska does not mean that she maintained her Alaska residency while she was living in Oregon.

Ms. T's confusion about the PFD eligibility requirements is understandable. It was not just Ms. T's absence and that she did not indicate when she would return to Alaska on her PFD application, but the circumstances of her move to Oregon, which disqualified her.

Before she applied for a 2013 PFD, Ms. T moved to Oregon to get away from her child's father, to seek employment, and attend school part-time. She admits that she sold her household belongings in Alaska before she left, and did not maintain a home in Alaska until she returned. The circumstances of this absence were inconsistent with the intent required to maintain Alaska residency.

⁴ Alaska Statute AS 43.23.005(a).

⁵ AS 01.10.055(c).

⁶ Alaska Regulation 15 AAC 05.030(h).

IV. Conclusion

Ms. T failed to show by a preponderance of the evidence that she maintained her Alaska residency until she applied for the 2013 PFD. Her son has no eligible sponsor. The Division’s decision is upheld. Ms. T and her child M are not eligible to receive the 2013 PFD.

DATED this 22nd day of September, 2014.

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 4th day of November, 2014.

By: Signed
Signature
Angela Rodell
Name
Commissioner
Title

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