

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

|                                     |   |                          |
|-------------------------------------|---|--------------------------|
| IN THE MATTER OF                    | ) |                          |
| O E                                 | ) | OAH No. 14-1965-PFD      |
|                                     | ) | Agency No. 2014-023-5503 |
| <u>2014 Permanent Fund Dividend</u> | ) |                          |

**DECISION & ORDER**

**I. Introduction**

O E applied for a 2014 permanent fund dividend (PFD). The Permanent Fund Dividend Division (Division) determined that Ms. E was not eligible, and it denied her application initially and at the informal appeal level. Ms. E requested a formal hearing.

Administrative Law Judge Mark T. Handley was appointed to review and decide Ms. E's appeal. The hearing was held on December 12, 2013. Ms. E participated. Pete F. Scott represented the Division and filed a position paper.

The administrative law judge concludes that Ms. E is not eligible for a 2014 PFD because she was absent from Alaska for more than 180 days to work in England.

**II. Facts**

Ms. E was a resident of Alaska who did not qualify for a 2013 PFD, because she did not apply. At the hearing, Ms. E admitted that she was absent from Alaska for 212 days in 2013 working as a Sales Assistant in order to get some employment experience after graduating in 2011. Ms. E lived in an Indian Student Hostel during her absence, but explained that she considered her parents' residence in No Name, Alaska to be her primary home, as she continued to help support that household and to live there before and after her absences.<sup>1</sup>

**III. Discussion**

The Division determined that Ms. E was not eligible for a 2014 PFD because she was absent from Alaska for a disqualifying reason, and had maintained her principal home outside Alaska in 2013. At the hearing, Ms. E explained that she believes she should be eligible because she has maintained her Alaska residency while she was absent and did not establish a new home as she has always considered her parent's home to be her primary home. Ms. E, as the person challenging the Division's action, has the burden of proving that the Division is in error.<sup>2</sup>

---

<sup>1</sup> Recording of Hearing- Testimony of Ms. E.  
<sup>2</sup> 15 AAC 05.030(h).

### *Disqualifying Absence*

In order to qualify for a permanent fund dividend, the applicant must have been physically present in Alaska all through the qualifying year, or must only have been absent for one of the reasons listed in AS 43.23.008.<sup>3</sup> Absence for employment is not included on that list. One of the provisions of that list allows an Alaskan to be absent for up to 180 days for any reason consistent with Alaska residency without disqualification.<sup>4</sup>

Because Ms. E was absent from Alaska for more than 180 days in 2013, the 180-day allowable absence for general reasons available to all residents does not apply to this case. The eligibility rules for a PFD are very strict for those who are on extended absences from Alaska. Many Alaskans lose eligibility for extended absence that are for the very good reasons, but are disqualifying.

### *Principal Home*

15 AAC 23.143(d)(1) provides that an otherwise eligible applicant is disqualified if, at any time from the beginning of the qualifying year through the date the application is complete, the applicant has “maintained the individual’s principal home in another state,” except while absent for specified reasons, such as attending college or accompanying and eligible resident who is serving in the military.<sup>5</sup> Ms. E was not on an allowable absence in 2013. Ms. E is therefore disqualified for the 2014 dividend because she maintained her principal home in England in 2013.

As an adult, living for such an extended period of time in another country to work after college, it is more accurate to characterize Ms. E’s living situation in England during her extended absence from Alaska as her primary home, than it would be to give that characterization to her parents’ residence in Alaska, where she had not been living most of the time since she started living in England for college in 2008.

### **IV. Conclusion**

Ms. E did not requirements for an allowable absence. Ms. E is also disqualified due to her having maintained her primary home outside Alaska during her absence. The application

---

<sup>3</sup> AS 43.23.005(a)(6).

<sup>4</sup> AS 43.23.008(a)(17)(A).

<sup>5</sup> See 15 AAC 23.143(d)(1)(A), (B).

of O E for a 2014 permanent fund dividend was correctly denied.

DATED this 12<sup>th</sup> day of December, 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 23<sup>rd</sup> day of January, 2015.

By: Signed  
Signature  
Jerry Burnett  
Name  
Deputy Commissioner  
Title

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