

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

In the Matter of)	
)	
S & A B)	
)	
<u>2014 Permanent Fund Dividends</u>)	OAH No. 15-0556-PFD Agency No. 2014-042-2374/4270

DECISION

I. Introduction

When S and A B applied for a 2014 Permanent Fund Dividend (PFD), the PFD Division denied their applications initially and at the informal appeal level on the basis of non-residency. At the Bs’ request, this office conducted a hearing by correspondence in which both they and the Division were able to submit evidence and argument. The Bs submitted no evidence and no argument.

The denial is affirmed because the evidence shows that the Bs did not have the “intent to remain” necessary to be an Alaska resident when they applied for the dividend. This circumstance disqualifies them from eligibility.

II. Facts

S and A B lived in Alaska for about a decade, receiving PFDs yearly through 2013. When they applied for the dividend in late February of 2014, each of them frankly disclosed that they were absent from Alaska and that they would not be returning to Alaska because they had “move[d] out to New York.”¹

The Bs had, in fact, traveled to New York in November of 2013 and remained there ever since.² Although there is conflicting evidence on the point, they claim they did not decide to make the move permanent until January or February of 2014.³ What is clear is that the decision to move had been made by the time they applied for the dividend in late February, because they unequivocally said so in their applications.

¹ Ex. 1, pp. 3, 6. Mr. B had also disclosed orally to the PFD Division in August of 2013 that he planned to move out of the state that autumn. Ex. 2, p. 1

² E.g., Ex. 4, p. 2.

³ *Id.*; Ex. 6, p. 2.

III. Discussion

To be eligible for a dividend, an individual must be “a state resident *on the date of application.*”⁴ It is not enough to be a resident throughout the qualifying year (2013); the applicant’s residency has to continue through the date the person applies. To be a state resident, a person must have “the intent to remain in the state indefinitely and to make a home in the state.”⁵

When Mr. and Mrs. B applied for a 2014 dividend, they were already in New York and, by their own admission, had already decided to make the move a permanent one. Because they lacked the intent to continue making their home in Alaska, they had lost their status as Alaska residents, and they were not eligible for a dividend.

IV. Conclusion

The denial of S and A B’s applications for 2014 Permanent Fund Dividends is affirmed.

DATED this 31st day of July, 2015.

By: Signed
Christopher Kennedy
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 Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 25th day of August, 2015.

By: Signed
Signature
Christopher Kennedy
Name
Administrative Law Judge
Title

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

⁴ Alaska Statute 43.23.005(a)(2) (italics added).

⁵ Alaska Statute 01.10.055. Residency can continue when an individual is absent from the state, but the intent to remain a resident must continue. *Id.*