

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

In the Matter of)	
)	
K G)	OAH No. 15-1231-PFD
)	Agency No. 2015-023-7447
<u>2015 Permanent Fund Dividend</u>)	

DECISION

I. INTRODUCTION

K G applied for a 2015 Permanent Fund Dividend (PFD). Her application was denied by the Permanent Fund Dividend Division (Division) because the Division found that on the day of the filing she had moved from Alaska without the intent to return and remain an Alaska resident indefinitely. Ms. G requested an informal appeal. The Division requested additional information from Ms. G, and when she failed to provide it within the 30-day window, the Division affirmed its denial of a PFD. Ms. G then requested a formal hearing by written correspondence.

Based on the evidence in the record, the Division’s decision to deny Ms. G’s application is upheld. Ms. G is disqualified from 2015 PFD eligibility because she was not an Alaska resident for the entire qualifying year or on the date of her application. The evidence available shows that, more likely than not, Ms. G severed her Alaska residency in 2014, and she is therefore not eligible for a 2015 PFD.

II. FACTS

On January 28, 2015, Ms. G filled out a jury questionnaire in which she answered “no” to the question whether she was an Alaska resident.¹ Additionally, she wrote the following comment: “I recently moved out of state Dec. 27th, 2014.”² On January 29, 2015, Ms. G filed an online PFD application on which she indicated that she was currently absent from Alaska and that she was not returning.³ Her explanation regarding her return to Alaska stated, “Relocated to North Carolina.”⁴

In response to factual findings by the Division, Ms. G wrote that she had never received the informal conference email sent by the division.⁵ She stated that she was in North Carolina

¹ Ex. 2.

² Ex. 2.

³ Ex. 1, at 3.

⁴ Ex. 1, at 3.

⁵ Ex. 7, at 2.

temporarily and intended to return to Alaska permanently.⁶ In the section of the formal hearing request form to indicate other relevant facts that should be considered by the Division, Ms. G wrote, “Nobody in my family in North Carolina is ill, I am just helping out the family.”⁷ Further, in the section of the formal hearing request form to explain issues, Ms. G stated, “I do plan on returning to Alaska by the end of 2015, beginning 2016. My family situation here in North Carolina here is getting better, I should be able to return in a few months.”⁸

The Notice of Hearing By Correspondence sent to Ms. G on September 16, 2015 indicated that Ms. G had until October 16, 2015 to submit documents or explanation to the Administrative Law Judge. Ms. G did not do so. Further, she did not submit anything in response to the Department of Revenue’s October 16th filing.

III. DISCUSSION

In order to qualify for a PFD, a person must be an Alaska resident both on the date of the application⁹ and during the entire qualifying year.¹⁰ An Alaska resident is someone who is in the state with the intent to remain indefinitely, or someone who intends to return to the state to remain indefinitely when that person’s absence is allowable by statute.¹¹ As the individual challenging the Division’s decision, it is Ms. G’s burden to establish that it is more likely than not that she is eligible for a 2015 PFD.¹²

The Division often denies applications when, at the time of filing, the State Jury Duty records indicate an inconsistency in the applicant’s indicated presence or residency in Alaska.¹³ Ms. G stated on the jury questionnaire that she was not an Alaska resident and would not be available for jury duty for that reason. Besides checking a box indicating that she was not an Alaska resident on the date of filing, under the comments section Ms. G wrote, “I recently moved out of state Dec. 27th 2014.” Ms. G did not provide the court clerk with any indication that she was only temporarily absent from state. She did not ask to reschedule her service after a return to Alaska.

⁶ Ex. 7, at 2.

⁷ Ex. 7, at 2.

⁸ Ex. 7, at 2.

⁹ AS 43.23.005(2).

¹⁰ AS 43.23.005(3).

¹¹ AS 43.23.095(7).

¹² 15 AAC 05.030(h).

¹³ See Permanent Fund Dividend Division Annual Report, STATE OF ALASKA, DEPT. OF REV. (2014), available at https://pfd.alaska.gov/LinkClick.aspx?fileticket=MXgVzMjdc_o%3D&tabid=506&portalid=6&mid=6428.

Ms. G's PFD application and request for formal hearing further support the conclusion that she was not an Alaska resident. She stated that she was not in Alaska at the time of filing the application, and that on December 27, 2014, she relocated out of state. Further, where the application allows for a "Returning to AK Explanation," she wrote, "Relocated to North Carolina." Both her application and the request for a formal hearing listed a North Carolina address. Finally, although she stated on her request for a formal hearing that she was in North Carolina only temporarily and planned to return to Alaska, she suggested that her return to Alaska is contingent upon on her family situation improving. However, she stated that her absence was not due to a family illness. Consequently, when Ms. G relocated to North Carolina she intended to remain for an indefinite amount of time. She did not leave for family medical reasons, which is potentially an allowable absence. Ms. G therefore failed to meet her burden to prove that she was an Alaska resident for PFD eligibility purposes. As a result, she is ineligible to receive a 2015 dividend.

IV. CONCLUSION

Ms. G severed her Alaska residency in December 2014. The Division's decision to deny the application of Ms. G for a 2015 PFD is AFFIRMED.

DATED this 4th day of November, 2015.

By: Signed
Lawrence A. Pederson
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 30th day of November, 2015.

By: Signed
Signature
Lawrence A. Pederson
Name
Administrative Law Judge
Title

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