

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

In the Matter of)	
)	
L G F)	OAH No. 15-1233-PFD
)	Agency No. 2014-048-3310
<u>2014 Permanent Fund Dividend</u>)	

DECISION

I. Introduction

L G F applied for a 2014 Permanent Fund Dividend (PFD). The Permanent Fund Dividend Division (Division) determined he was not eligible. It denied his application both initially and at the informal appeal level. Mr. G F requested a formal hearing.

Mr. G F's hearing was held on October 26, 2015. Mr. G F represented himself. PFD Specialist Peter Scott represented the PFD Division (Division).

Mr. G F is not eligible for the 2014 PFD because he maintained his principal residence in another state during 2013 – the qualifying year for the 2014 PFD. This was a disqualifying act.¹ The Division's decision denying his application is upheld.

II. Facts

Mr. G F applied for a 2014 PFD on February 10, 2014. That application was initially denied for two reasons: one, failure to provide requested documentation; two, that he was not an Alaska resident. Mr. G F subsequently provided the Division with its requested documentation. The Division then denied Mr. G F's application based, in part, upon its assessment that he maintained his principal residence in another state during 2013, which was the qualifying year for the 2014 PFD.²

Mr. G F is in the military. He was transferred to Alaska by the military and arrived in the state on December 10, 2012 to begin a three year tour of duty. He changed his legal state of residence in his military records to Alaska in 2012. He does not know if he will remain stationed in Alaska after that three year period expires.³ He has a wife and two minor children. They reside in North Carolina, where Mr. G F owns a home, which he purchased in 2011. He does not own a home in Alaska; he rents a one bedroom apartment, the lease for which states that it is

¹ The Division raised several other arguments in support of its ineligibility determination. Because the principal residence issue is dispositive of this case, it is not necessary to address those other arguments.

² See Ex. 6, p. 2, Fact 8.

³ Mr. G F's testimony; Ex. 1, p. 3; Ex. 16, p. 1.

only for one person occupancy. Mr. G F's wife and children came to Alaska for several months in 2013, from approximately August through November or December. They left because his wife did not like the cold weather and also because she wanted to return to her business in North Carolina.⁴

Mr. G F's 2013 federal tax return was filed by him solely and does not name his wife as a household member. Instead, he filed as head of household, claimed his two minor children as dependents, and claimed an earned income credit, child tax credit, and childcare tax credit, all of which require him to name the children as his dependents. The earned income credit portion of the tax return stated the children resided with him 12 months of the year in 2013. The childcare expense form lists the childcare provider as being located in North Carolina.⁵

Mr. G F obtained an Alaska driver's license in May 2014, and registered his vehicle in Alaska in July 2014.⁶

III. Discussion

The law governing this case is 15 AAC 23.143(d), which reads in relevant part:

An individual is not eligible for a dividend if, any time from January 1 of the qualifying year through the date of application, the individual has

- (1) maintained the individual's principal home in another state or country, regardless of whether the individual spent a majority of time at that home . . .

The regulation excludes from PFD eligibility applicants who would otherwise qualify under the statutory eligibility criteria, if they have maintained a home in another state.⁷

A review of the facts leads to the factual conclusion that Mr. G F maintains his principal residence in North Carolina. This conclusion is reached based upon the following factors:

- He owns property in North Carolina in which his wife and children reside;
- He only rented a one bedroom apartment, which was for one person occupancy only, shortly after he arrived in Alaska, which is indicative that he did not intend to have his family stay with him;

⁴ Mr. G F's testimony; Ex. 5.

⁵ Ex. A, pp. 2, 5 - 11 (Mr. G F's 2013 federal income tax return).

⁶ Mr. G F's testimony; Ex. 1, pp. 3 - 5.

⁷ There is an exception to this rule if the applicant maintains a home in another state or country because he or she is absent from Alaska for an excused reason. *See* 15 AAC 23.143(d)(1)(A). However, this exception does not apply to Mr. G F because he was present in Alaska during the qualifying year.

- His 2013 federal income tax return indicates that he is the family head of household, and that his children resided with him 12 months of the year. However, the children were physically present in North Carolina the majority of the year. This implies that he considers his North Carolina home, where the children are, as his primary residence.

As a consequence, Mr. G F is disqualified from receiving a 2014 PFD, because he maintained his principal residence in North Carolina during 2013.

IV. Conclusion

Mr. G F is not eligible to receive a 2014 PFD. The decision of the Division is affirmed.

DATED this 10th 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 4th day of December, 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.]