

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

| | | |
|-------------------------------------|---|--------------------------|
| In the Matter of |) | |
| |) | |
| S C |) | |
| |) | OAH No. 15-1520-PFD |
| <u>2015 Permanent Fund Dividend</u> |) | Agency No. 2015-027-7886 |

DECISION

I. INTRODUCTION

S C applied for a 2015 Permanent Fund Dividend (PFD). His application was denied by the Permanent Fund Dividend Division (Division) because the Division found that he claimed legal residence in a state other than Alaska during part of 2014. Mr. C requested an informal appeal. After the informal appeal, the Division upheld the denial of Mr. C's application. Mr. C then requested a formal hearing by written correspondence.

Based on the evidence in the record, the Division's decision to deny Mr. C's application is upheld. Mr. C is disqualified from 2015 PFD eligibility because he claimed legal residency in Florida during part of 2014, the qualifying year for the 2015 PFD.

II. FACTS

Mr. C arrived in Alaska on or about December 12, 2013.¹ At that time, he was in military service. His wife was already in Alaska.² Mr. C's military leave and earnings statement showed that he claimed Florida as his state of legal residence (SLR) as of December 31, 2013.³ Mr. C averred that he attempted to change his SLR with the military the week he arrived and that the military failed to process it.⁴ He subsequently was able to change his SLR to Alaska using a military State of Legal Residence Certificate (DD Form 2058), which he signed and dated January 10, 2014.⁵

Mr. C applied for the 2015 PFD.⁶ That application was denied because he had claimed residency in another state than Alaska in 2014.⁷

¹ Ex. 9, p. 6.
² Ex. 5, p. 2.
³ Ex. 2, p. 5.
⁴ Ex. 5, p. 2.
⁵ Ex. 9, p. 5.
⁶ Ex. 1.
⁷ Exs. 8, 13.

The Notice of Hearing By Correspondence sent to Mr. C on December 4, 2015 indicated that he had until January 4, 2016 to submit documents or explanation to the Administrative Law Judge. Mr. C did not do so. Further, he did not submit anything in response to the Division's December 29, 2015 filing.

III. DISCUSSION

In order to qualify for a PFD, a person must be an Alaska resident during the entire qualifying year.⁸ As the individual challenging the Division's decision, it is Mr. C's burden to establish that it is more likely than not that he is eligible for a 2015 PFD.⁹ In order to do that, he must show that he was an Alaska resident during the entire qualifying year, which was 2014.

Mr. C did not meet his burden of proof. The record shows that, as of December 31, 2013, he claimed Florida residency, and he did not file the necessary paperwork (DD Form 2058) to change his SLR from Florida to Alaska until January 10, 2014. This means that he was a Florida resident at the very beginning of 2014, and was not an Alaska resident for the entire year of 2014. Although Mr. C averred that he had filed the paperwork to change his SLR in 2013, he did not submit any evidence to that effect.¹⁰ Consequently, Mr. C failed to meet his burden to prove that he was an Alaska resident for the entire qualifying year of 2014. As a result, he is ineligible to receive a 2015 dividend.

IV. CONCLUSION

The Division's decision to deny the application of Mr. C for a 2015 PFD is AFFIRMED.
DATED this 3rd day of February, 2016.

By: Signed
Lawrence A. Pederson
Administrative Law Judge

⁸ AS 43.23.005(3).

⁹ 15 AAC 05.030(h).

¹⁰ For instance, Mr. C could have submitted a certified copy of his 2013 request to change his SLR, or a sworn statement from someone in the personnel office stating that the form had been filed but was not timely processed. See 15 AAC 23.143(d)(2); *In Re R. M. P.*, OAH Case No. 08-0347-PFD, p. 4 (Department of Revenue, 2008).

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 29th day of February, 2016.

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

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