

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

In the Matter of)
)
 B B) OAH No. 16-0482-PFD
) Agency No. 2015-067-5887
_____)

DECISION AND ORDER

I. Introduction

B B applied for the 2015 Permanent Fund Dividend (PFD). The Permanent Fund Division (Division) denied the application both initially, and at the informal appeal level, on the basis of untimeliness. Mr. B requested a formal hearing by correspondence.

The Division’s denial is affirmed because the application was mailed after the application deadline and did not qualify for an exception to that deadline.

II. Facts

Mr. B has been receiving a PFD for a number of years. He was in Colorado on March 31, 2015, which was the deadline for filing the 2015 PFD application. He went to a local library to use a computer, where he attempted to download the PFD application form and could not. He could have applied for the PFD online. He chose not to apply online. Instead, he had a friend in Alaska fax him the application form.¹ That form reads, on the bottom of the first page, “[y]our application must be received by the PFD Division or postmarked by March 31, 2015.”² Mr. B completed the application on March 31, 2015 and took it to a United Parcel Service (UPS) store, where he was told by staff that the store would see that it was postmarked and mailed by the United States Postal Service (USPS) that same day.³ However, the USPS postmark on the envelope is April 1, 2015.⁴ The Division denied Mr. B’s application as having been untimely filed.⁵

III. Discussion

A PFD application must be filed by March 31 of the application year: “[a]n application for a permanent fund dividend shall be filed during the period that begins January 1 and ends

¹ Mr. B’s testimony.
² Ex. 1, p. 1.
³ Mr. B’s testimony; Ex. 3, p. 3.
⁴ Ex. 1, p. 3.
⁵ Ex. 2.

March 31 of that dividend year.”⁶ “An application must be received by the department or postmarked during the application period . . . to be considered timely filed.”⁷ It is the applicant’s responsibility to see that the application is timely delivered to the Division or to the post office for postmarking.⁸ Mr. B’s application was neither postmarked nor delivered to the Division by the March 31, 2015 deadline. On its face, Mr. B’s application, postmarked April 1, 2015, was filed after the deadline. There is an allowable exception to the filing deadline if the delay is due to verified USPS error:

The department will deny a paper application postmarked after the application period, **unless** the individual provides the department with an official statement from the United States Postal Service . . . that describes the specific circumstances under which the postal service incorrectly posted the individual’s application or caused a delay in posting.⁹

Mr. B provided a statement from UPS, which acknowledged that its staff incorrectly informed him that his application would be postmarked that day. However, UPS is not the USPS. As a result, Mr. B does not fit within the narrow exception allowed by law for a mailed PFD application postmarked after the March 31 deadline.

IV. Conclusion and Order

IT IS HEREBY ORDERED that the application of B B for a 2015 permanent fund dividend is denied.

DATED this 27th day of May, 2016.

Signed

Lawrence A. Pederson
Administrative Law Judge

⁶ AS 43.23.011(a).
⁷ 15 AAC 23.2013(a).
⁸ 15 AAC 23.103(g).
⁹ 15 AAC 43.23.011(g) (emphasis supplied).

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 1st day of July, 2016.

By: Signed
Signature
Jerry Burnett
Name
Deputy Commissioner
Title

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