

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

In the Matter of)	
)	
B D and X B,)	OAH No. 16-1004-PFD
N D & T B (minors))	Agency Nos. 2016-013-7228;
)	2016-018-9429/6897/6969
_____)	

DECISION

I. INTRODUCTION

B D and X B applied for a 2016 Permanent Fund Dividend (PFD) for themselves. Ms. D was the sponsor for the applications of the two minor children N D and T B. Those applications were denied by the Permanent Fund Dividend Division (Division) because the Division found that they were no longer Alaska residents. Ms. D and Mr. B requested an informal appeal, both on their own behalf and on behalf of the two minors. That appeal was denied. They then requested a formal hearing.

Based on the evidence in the record, the Division’s decision to deny the applications of Ms. D, Mr. B, and the minor children is upheld. The entire family moved to the State of Washington in November 2015. They stated on their applications that they moved to Washington and did not intend to return. As a result, they are no longer Alaska residents for PFD eligibility purposes.

II. FACTS

Ms. D, Mr. B, Ms. D’s child N, and their joint child T moved to Washington State on November 17, 2015. They each filed for the 2016 PFD:

- Ms. D’s electronic application was filed on January 18, 2016. On that application, she stated that she was not currently in Alaska, having left on November 17, 2015, was not returning to Alaska, and “my family and I moved to Washington to start over after losing everything to bed bugs in the apartment we were renting.”¹
- Mr. B’s electronic application was filed on January 25, 2016. On that application, he stated that he was not currently in Alaska, having left on November 17, 2015, was not

¹ Ex. 1.

returning to Alaska, and “my girlfriend and I decided to move down to Washington to start over.”²

- N’s electronic application, with Ms. D as her sponsor, was filed on January 25, 2016. On that application, she stated that she was not currently in Alaska, having left on November 17, 2015, was not returning to Alaska, and “my family and I moved to Washington to start over on November 17, 2015.”³
- T’s electronic application, with Ms. D as her sponsor, was filed on January 25, 2016. On that application, she stated that she was not currently in Alaska, having left on November 17, 2015, was not returning to Alaska, and “my family and I moved to Washington to start over on November 17, 2015.”⁴

The Division denied the applications on the grounds that Ms. D, Mr. B, and the two children were no longer Alaska residents. After the Division denied their family’s applications, Ms. D and Mr. B jointly submitted two written statements indicating that they went down to Washington on a temporary basis due to a family member’s health problems, had intended to return to Alaska, and that they had been unable to do so based on their financial situation.⁵ They and the two minor children were living in Washington State at the time of their hearing.

Ms. D and Mr. B’s testimony was consistent with their written statement. They further testified that the statements about moving to Washington for a new start and that they did not intend to return to Alaska were the product of internet connection errors, since they had to use their phones to electronically file the applications and had a great amount of difficulty in the filing. Ms. D and Mr. B were not credible witnesses. It is highly improbable that a technical glitch would result in each of the four applications indicating a move from Alaska due to a new start with intent to not return. Accordingly, it is more likely true than not true that Ms. D, Mr. B, and the two children moved from the State of Alaska on November 17, 2015 intending for it to be a permanent move.

² Ex.8 , pp. 1 - 3.

³ Ex. 9, pp. 1 - 2.

⁴ Ex. 10, pp. 1 - 2.

⁵ Ex. 7; Ex. 8, pp. 14 – 17.

III. DISCUSSION

In order to qualify for a PFD, a person must be an Alaska resident both on the date of the application⁶ and during the entire qualifying year.⁷ 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.⁸ As the individuals challenging the Division's decision, Ms. D and Mr. B have the burden of proof.⁹

As found above, Ms. D and Mr. B left Alaska with the minor children on November 17, 2015, with the intent to not return. Because they left with the intent to not return, they lacked the prerequisite intent to remain in Alaska indefinitely. This means they were no longer Alaska residents, for PFD eligibility purposes, as of November 17, 2015. Ms. D and Mr. B, therefore, failed to meet their burden to prove that they were Alaska residents for PFD eligibility purposes. As a result, they are ineligible to receive a 2016 dividend. In order for a minor to be eligible for a PFD, the child must also be an Alaska resident for PFD purposes, and the minor's sponsor must be eligible.¹⁰ There are therefore two separate reasons for denying the children's applications. First, they were not Alaska residents for PFD eligibility purposes. Second, Ms. D was the sponsor for both minors; because she is not eligible, the two minor children are also not eligible.

IV. CONCLUSION

Ms. D, Ms. B, and the two minor children were no longer Alaska residents for PFD eligibility purposes because they left the State of Alaska on November 17, 2015, with the intent to not return. As a direct result, they were not eligible for the 2016 PFD. The Division's decision to deny their applications for the 2016 PFD is AFFIRMED.

DATED this 20th day of October, 2016.

By: Signed
Lawrence A. Pederson
Administrative Law Judge

⁶ AS 43.23.005(2).
⁷ AS 43.23.005(3).
⁸ AS 43.23.095(7).
⁹ 15 AAC 05.030(h).
¹⁰ 15AAC 23.113(b)(1) and (e).

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 15th day of November, 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.]