

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

In the Matter of)	
)	
K L. N)	
)	
<u>2016 Permanent Fund Dividend</u>)	OAH No. 17-1172-PFD Agency No. 2016-060-6826

DECISION

I. Introduction

After K N timely applied for a 2016 Permanent Fund Dividend (PFD), the Permanent Fund Dividend Division denied his application on the basis that, during the qualifying period, he appeared to have claimed residence in another state or country and had received a student loan from another state or country. Mr. N initiated the informal appeal process but did not participate in it actively, and the informal appeal was resolved against him on September 7, 2017. He had 30 days to appeal to the formal level. Nearly 60 days later later, with no explanation for the delay, Mr. N requested a formal hearing by correspondence. The division moved to dismiss on the basis of untimeliness. The division’s motion is granted because Mr. N missed the deadline to appeal, and he has not shown any basis to waive the deadline in his case.

II. Facts

The facts in this case are undisputed. Mr. N, who is now 20, is a longtime Alaskan who has received a dividend annually since he was an infant. In 2016, however, his own application indicated that between December 31, 2014 and the date he applied, he had accepted permanent full-time employment outside Alaska, had claimed residency outside Alaska in employment records, and had applied for or received a student loan outside Alaska.¹ Assuming the answers he gave on the application were correct, these facts would make him ineligible for a 2016 dividend under regulation 15 AAC 23.143(d). After trying without success to get more information from him, the PFD Division denied his application in March of 2017.²

Mr. N initiated the department’s informal appeal process but again failed to participate by providing information. This led to an adverse outcome, with a decision issued to him, at the

¹ Ex. 1, p.4.
² Ex. 2.

correct address, on September 7, 2017.³ It was sent with a form for requesting a formal appeal hearing, which told him his deadline to submit that form was October 7, 2017.⁴

Four weeks after the deadline, on November 2, 2017, Mr. N filled out and turned in the formal appeal form.⁵ In accordance with AS 44.64.030, the Department of Revenue referred the appeal to this office.

The PFD Division moved to dismiss the appeal as untimely. By notice dated December 1, 2017, Mr. N was given until December 21, 2017 to “respond to the motion with any additional documents or explanation that you would like the Administrative Law Judge to consider in resolving it.” Mr. N submitted nothing.

III. Discussion

By regulation, the time limit to further appeal an informal appeal decision is “within 30 days after the date the . . . decision is issued.”⁶ There is no dispute that Mr. N missed that deadline.

The 30-day appeal window does not apply if the applicant “demonstrates a reasonable cause for the failure to file within this period.”⁷ Similarly, the administrative law judge may waive the appeal deadline if adherence to it “would work an injustice.”⁸

Mr. N, who has not participated in this formal appeal beyond filing his initial request, has done nothing to demonstrate reasonable cause for the delay. There is also nothing in the record to suggest that adhering to the appeal deadline would work an injustice.

The deadline for initiating an appeal serves an important purpose. It prevents the unlimited revisiting of decisions long in the past. Historically, the appeal deadlines have only been set aside in particularly compelling circumstances,⁹ and none have been shown here.

//
//
//
//
//

³ Ex. 6.
⁴ The form is found at Ex. 9.
⁵ Ex. 7, Ex. 9.
⁶ 15 AAC 05.030(a).
⁷ *Id.*
⁸ 15 AAC 05.030(k).

IV. Conclusion

Mr. N did not timely appeal the denial of his 2016 PFD application. His appeal is therefore dismissed.

DATED this 4th day of January, 2018.

By: Signed
Christopher Kennedy
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 Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 30th day of January, 2018.

By: Signed
Signature
Christopher Kennedy
Name
Commissioner's Delegate
Title

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

⁹ Prior decisions regarding the enforcement or waiver of PFD appeal deadlines can be found at <http://doa.alaska.gov/oah/Decisions/pfd.html>.