

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

In the Matter of)	
)	
D X)	OAH No. 18-0116-PFD
)	Agency No. 2017-066-9594
_____)	

DECISION AND ORDER

I. Introduction

The deadline to apply for a 2017 Permanent Fund Dividend (PFD) was March 31, 2017. D X filed an application that was postmarked April 1, 2017, when received by the Department of Revenue, Permanent Fund Dividend Division (Division). The Division denied the application initially and at the informal appeal level on the grounds that Mr. X’s application was untimely. Mr. X requested a formal hearing, that was held on March 27, 2018. At the hearing Mr. X, testified that he posted his PFD application at the airport post office in the box labelled for PFD applications at 10:30 p.m. of March 31, 2017.

The Division’s denial of Mr. X’s application for a 2017 PFD is affirmed because the statutes and regulations provide no discretion to the Division to grant a PFD application in this circumstance, absent corroborating evidence from the post office.

II. Facts

D X is a long time Alaska resident who has received PFD’s in every year since the program’s inception.¹ There are no issues concerning Mr. X’s eligibility for the 2017 PFD, provided his application had been deemed timely.

Mr. X filed a paper 2017 PFD application that he signed on March 31, 2017. The application was received by the Division on April 3, 2017, in an envelope postmarked April 1, 2017.² The Division denied Mr. X’s application as untimely on June 16, 2017. Mr. X requested an informal appeal, stating that he had delivered the application on March 31, 2017, at the Anchorage International Airport Post Office and placed it in the special box marked for PFD’s.³ As part of its work on Mr. X’s informal appeal, the Division contacted Dawn Peppinger, the marketing manager for the United States Postal Service-Alaska

¹ Exhibit 1, p. 4.
² Exhibit 1 pp. 1-3.
³ Exhibit 3, p. 2.

District, requesting any corroborating support for Mr. X's statement. Ms. Peppinger was unable to provide any reason why Mr. X's application would have been postmarked April 1, if deposited in the specially marked box.⁴

At the hearing, Mr. X testified that he placed his application in the specially marked box at the airport post office at 10:30 p.m. on the evening of March 31, 2017.⁵ Mr. X is a long time Alaskan recipient of the PFD and a credible witness. Unfortunately, neither he nor the Division were able to obtain an official statement from the United States Postal Service explaining that his application was incorrectly posted.

III. Discussion

In order to qualify for a PFD an applicant must file a timely application.⁶ The application period runs from January 2, through March 31, of the qualifying year—in this case March 31, 2017.⁷

15 AAC 23.103(g) directly addresses the circumstances here, where an application is postmarked after March 31, but the applicant believes the application was timely filed; it provides, in pertinent part:

It is the individual's responsibility to ensure that an application is timely delivered to the department....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 Post Postal Service...that describes the specific circumstances under which the postal service incorrectly posted the individual's application or caused a delay in posting.

Unfortunately, neither the Division nor Mr. X was able to obtain the required official statement. Therefore, the Division had no discretion to grant Mr. X's request for the 2017 PFD.

IV. Conclusion

Because Mr. X's application was received by the Division with a postmark of April 1, 2017, it was untimely under the applicable statutes and regulations. Without an official statement from the United States Post Office explaining the late filing, the application must

⁴ Exhibit 4, p. 1.

⁵ Testimony of Mr. X.

⁶ AS 43.23.005(a)(1).

⁷ AS 43.23.011(a).

be denied. The decision of the Division to deny Mr. X the 2017 PFD is AFFIRMED. This, of course, does not affect his eligibility for the 2018 and future PFDs.

Dated: April 2, 2018

Signed

Karen L. Loeffler
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 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 27th day of April, 2018.

By: Signed

Signature
Karen L. Loeffler

Name
Administrative Law Judge

Title

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]