

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL
FROM THE UNIVERSITY OF ALASKA**

IN THE MATTER OF)
)
 M. A. R.) OAH No. 09-0477-PFE
_____)

DECISION

I. Introduction

M. A. R. submitted a Notice of Defense appealing the University of Alaska, Fairbanks’ (the University) claim against her future permanent fund dividends (PFDs).¹ A hearing was held on October 14, 2009. Ms. R. and Michael O’Brien, counsel for the University, participated by phone. Because Ms. R. has not shown that the University’s claim is for more than the amount due, the appeal is denied. The University is entitled to claim a maximum of \$2,884 against Ms. R.’s future PFDs until the claim is satisfied.²

II. Facts

Ms. R. registered for 15 credits for the 2008 fall term through the Registrar’s Office on May 17, 2008.³ Tuition and fees totaled \$2,684 and were due on by September 12, 2008.⁴ The University’s 2008 fall term classes began on September 4, 2008. September 12, 2008 was the deadline for full refunds of tuition and fees to students who withdraw. Fifty percent refunds of tuition only were allowed for students who withdrew by September 19, 2008. These dates were published in the University’s academic calendar.⁵

The University’s records show that Ms. R. never attended the classes nor did she withdraw from the classes. Late fees were assessed increasing the total amount due by \$200 to \$2,884.⁶ Ms. R. recalled reviewing the University’s materials and mentally made a note that she needed to withdraw from classes by September 19, 2008. The events surrounding her withdrawal are clear in Ms. R.’s mind because she had to go to her mother’s to use her brother’s computer. She was not getting along with her mother at the time so she did not visit

¹ Exhibit 10.
² The University originally sought an order directing Ms. R. to file for future PFDs. The University has since withdrawn this request. *See* Motion Withdrawing Request, dated October 20, 2009.
³ Exhibit 1.
⁴ Exhibits 2, 3.
⁵ Exhibit 3 at 3.
⁶ Exhibit 4.

often.⁷ Ms. R. testified that she went online to drop the classes and believed that she was successful, that it “went through.” However, she failed to print a confirmation.

A Notice of Default dated May 21, 2009 was sent to Ms. R.⁸ No response was filed nor was an appeal requested. A Notice of Intent to Collect PFD Claim dated June 23, 2009 was sent to Ms. R. Ms. R. responded and filed a Notice of Defense and requested a hearing. In support of her appeal she explained that the amount owed is less than the amount claimed because she “dropped all the classes on line the day before the deadline.”⁹

The University presented the testimony of Morgan English, Lead Data Base Administrator. Ms. English established that the University’s computer system is set up such that when a person logs in and receives a welcome message an entry is recorded. The University searched its logs for activity in Ms. R.’s account and found that she accessed her account twice in addition to her registration: once on June 13, 2008 and once on August 26, 2008. Computer logs associated with Ms. R.’s account for those two dates do not show that she attempted to drop classes.

III. Discussion

Alaska law provides that tuition, fees and other charges owed by an individual to the University in default if not paid within 180 days.¹⁰ When an individual is in default to the University, the University is allowed to take the individual’s PFD.¹¹ Once the University has provided proper notification of its claim against the individual’s PFD, the individual has the burden of refuting the University’s claim.¹² The individual may do this by showing one of only three things: (1) the University did not send a notice of default in compliance with the law, (2) the notice of default has been rescinded, or (3) the amount owed by the individual is less than the amount claimed from the PFD.¹³ Ms. R.’s Notice of Defense claimed the third, that the University did not have the legal authority to garnish her PFD because she timely withdrew and therefore cannot be in debt to University.

The University established that if Ms. R. had attempted to log into her account there would be a record of her access and a record of her activity during that access. Ms. R. did

⁷ R. Testimony.

⁸ Exhibit 7.

⁹ Exhibit 10.

¹⁰ AS 14.40.251(a).

¹¹ AS 14.43.251(a); AS 43.23.073.

¹² AS 43.23.073(c).

¹³ *Id.*

access her account on August 26, 2008. However, the University's log does not show any attempt to withdraw from her classes associated with that access. Without a confirmation or some other corroborating evidence of withdrawal, the evidence offered by Ms. R. is insufficient to establish that it is more likely than not that she withdrew from her classes.

When Ms. R. registered for classes and she agreed to be subject to the University's published policies and procedures. The University's policies impose responsibility for full payment upon registration subject to timely withdrawal. Ms. R. did not withdraw. Therefore she is liable for the full amount of the claim.

IV. Conclusion

M. A. R. failed to meet her burden of proof that the amount owed is less than the amount claimed. The University of Alaska is entitled to claim a maximum of \$2,884 against one or more of Ms. R.'s Alaska Permanent Fund Dividends until the claim is satisfied by collection from dividend or otherwise.

DATED this 2nd day of November, 2009.

By: Signed
Rebecca L. Pauli
Administrative Law Judge

Adoption

The undersigned, on behalf of the University of Alaska 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 7th day of December, 2009.

By: Signed
Signature
Brian Rogers
Name
Chancellor
Title

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