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

In the Matter of)	
)	
KT)	OAH No. 18-0660-PFD
)	Agency No. 2017-056-5544

DECISION AND ORDER

I. Introduction

K T appealed a denial of his 2016 PFD. The Division requested the matter be dismissed as untimely because Mr. T filed for an informal appeal 19 days late. Because it is arguable that reasonable cause existed to justify the delay, and it would be unjust to deny a hearing, the Division's request for dismissal is denied. However, because he did not meet his burden of demonstrating the Division's decision was in error when it concluded he did not meet the residency requirement, Mr. T's Permanent Fund Dividend (PFD) was properly denied. The Divisions decision is affirmed.

II. Facts

Mr. T moved to Gladstone Oregon in October 2016. ¹ Mr. T went to Oregon to care for his ailing grandmother. ² In February 2017, he began sending resumes for employment in Oregon. ³ In March 2017, Mr. T interviewed with Employer A. ⁴ He was offered a job and began his employment sometime during the week of March 24, 2017. ⁵ Mr. T filed for his permanent fund dividend March 28, 2017. ⁶

III. Discussion

A. Dismissal of claim outright is denied

The Division requested the dismissal of the appeal outright because the denial letter was sent October 3, 2017⁷ and Mr. T filed the request for an informal appeal on November 21,

Mr. T testimony

² Mr. T testimony

Mr. T testimony

⁴ Mr. T testimony

⁵ Mr. T testimony

⁶ Exhibit 1

⁷ Exhibit 2

2017.⁸ The requests must be filed within 30 days after the date of the notice of assessment unless the individual demonstrates a reasonable cause for the failure to file within this period.⁹ At the formal hearing level, the deadline may be waived if strict adherence to the deadline would work an injustice.¹⁰ Historically the appeal deadlines have only been set aside in particularly compelling circumstances.¹¹

Mr. T did not specifically articulate the basis for his delay; however, the basis for his relocation to Oregon was to care for his ailing grandmother. The burden of the daily tasks involved in caretaking for a sick relative can be inferred as a compelling circumstance for delayed filing, so the Division's request for an outright dismissal of a formal appeal is denied.

B. Mr. T was not a resident of Alaska at the time of his filing, nor did he provide evidence that despite his absence from Alaska, he intended to return to Alaska, with the intent of remaining indefinitely and maintaining a home.

In order to be eligible for a Permanent Fund Dividend (PFD), one must be a resident throughout the qualifying year and at the time of application for the PFD. ¹² The qualifying year for 2017 is the entirety of 2016 through March 31 2017.

A person establishes residency by being physically present in Alaska with the intent to remain indefinitely and make a home. ¹³ Mr. T was not in Alaska at the time of his filing; Mr. T was in Oregon on March 28, 2018, when he applied for his PFD. ¹⁴

A person who establishes residency, but then leaves Alaska, is no longer an Alaskan resident if he establishes residency in another state or behaves in a manner inconsistent with the intent to remain in Alaska indefinitely and make a home here. ¹⁵

Mr. T moved to Oregon in October 2016. ¹⁶ His PFD application read that he did not plan to return to Alaska. ¹⁷ While he left some personal items in Alaska, he did so because

⁸ Exhibit 4

^{9 15} AAC 05.010(b)(5).

¹⁵ AAC 05.030(k).

In re V.D., OAH No. 14-0943-PFD at 3 (Commissioner of Revenue 2014).

¹² AS 43.23.005 (a) (2)

¹³ AS 01.10.055 (a)

Mr. T testimony; Exhibit 1

AS 01.10.055 (c)

Mr. T testimony

Exhibit 1

of the cost associated with moving all his belongings. ¹⁸ He did not provide any evidence that he paid any rent in Alaska to maintain a residence or storage for left behind items in Alaska. ¹⁹ Mr. T offered no evidence in support of him maintaining a home in Alaska or to show he remained an Alaskan resident. Instead, he obtained employment and housing in Oregon, where he remains. ²⁰

IV. Conclusion

Mr. T moved from Alaska to Oregon to care for his grandmother. He did not provide evidence to support him remaining an Alaskan resident, which would allow him to receive the PFD even with him in Oregon caring for his grandmother. Instead, the evidence shows he established a residence and employment in Oregon.

The Division's denial is affirmed.

Dated: August 29, 2018

By: <u>Signed</u>	
Signature	
Hanna Sebold	
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.]

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.

Mr. T testimony

Mr. T testimony

Mr. T testimony

By: <u>Signed</u>
Name: <u>Hanna Sebold</u>
Title: <u>Administrative Law Judge</u>

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