

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

In the Matter of)	
)	OAH No. 18-1089-PFD
N D)	Agency No. 2018-006-9178
_____)	

DECISION

I. INTRODUCTION

N D applied for a 2018 Permanent Fund Dividend (PFD). His application was denied by the Permanent Fund Dividend Division (Division) because the Division found that he was no longer an Alaska resident for PFD eligibility purposes. Mr. D requested an informal appeal. That appeal was denied. He then requested a formal hearing by correspondence.

Based on the evidence in the record, the Division’s decision to deny the applications of Mr. D is upheld. Mr. D was attending college in the State of Washington when he applied for the 2018 PFD. He stated on his application that he did not intend to return to the State of Alaska. As a result, he is no longer an Alaska resident for PFD eligibility purposes.

II. FACTS

Mr. D was attending college in Washington State beginning in the fall of 2017.¹ He applied for the 2018 PFD electronically on January 5, 2018. He was 18 years old at the time he filed his application. On that application, he stated that he was not currently in Alaska, having left on September 19, 2017, that he was not returning to Alaska, and that “after I obtain my bachelor’s degree I hope to continue my education and earn a master’s degree out of state. Also due to the high crime rate and the highest STD rate, Alaska is not for me anymore.”²

The Division denied the applications on the grounds that Mr. D stated he did not intend to return to Alaska and did not have the “intent to remain an Alaska resident indefinitely.”³

Mr. D requested an informal appeal. In that request, he stated that he misunderstood the question on the application, and that he intended to return to Alaska after he earned his degree.⁴ The Division denied his informal appeal because he did not possess the “requisite intent to return

¹ Ex. 2, pp. 2 – 3.
² Ex. 1.
³ Ex. 3, p. 1.
⁴ Ex. 4, pp. 1 – 2.

to Alaska to live as an Alaska resident indefinitely” and that he did not prove that he “met the definition of a ‘state resident’ for PFD purposes at all times during 2017 and throughout the date of application.”⁵

Mr. D’s hearing by correspondence was handled entirely by his mother, who holds his power-of-attorney. He did not provide any written statement, other than that contained in his request for an informal appeal. Ms. D’s written statement provided her opinion that when Mr. D responded to the questions regarding his intent to return to Alaska, “he answered with his heart.” She then attributed his responses to his youth, opined that he would have a different answer once he matured, and stated that he was an Alaska resident and would remain one “for an unknown number of years.”⁶

III. DISCUSSION

In order to qualify for a PFD, a person must be an Alaska resident both on the date of the application⁷ and during the entire qualifying year.⁸ 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.⁹ As the individual challenging the Division’s decision, Mr. D has the burden of proof.¹⁰

Mr. D’s application stated that he did not intend to return to Alaska and that “Alaska is not for me anymore.” Mr. D then stated in his request for an informal appeal, that he misunderstood the question and that he intended to return to Alaska. Ms. D argued that Mr. D’s statements on his application were due to his youth. The best evidence of Mr. D’s intent is found, despite Ms. D’s argument, in his own statements contained in the application and his request for an informal appeal. Reviewing those, it is clear that he did not misunderstand the question, given his statement that “Alaska is not for me anymore.” His statement in the informal appeal request, that he is going to return to Alaska is either a change of heart or self-serving. However, given his statements on the application, it is more likely true than not true that he did not have the requisite intention to physically return to Alaska and remain in Alaska indefinitely when he submitted his PFD application.

⁵ Ex. 6, pp. 1 – 2.

⁶ See Ms. D’s written statement dated November 2, 2018.

⁷ AS 43.23.005(2).

⁸ AS 43.23.005(3).

⁹ AS 43.23.095(7).

¹⁰ 15 AAC 05.030(h).

In order for Mr. D to maintain his eligibility for the 2018 PFD, he needed to demonstrate that he intended to return to Alaska and remain in Alaska indefinitely. This is his burden of proof. As found above, he has not shown that he has the requisite intent. This means that he is no longer an Alaska resident for PFD eligibility purposes, and he is ineligible to receive a 2018 PFD.

IV. CONCLUSION

Based upon Mr. D's statements on his 2018 PFD application, he was no longer an Alaska resident for PFD eligibility purposes because he was living outside the State of Alaska and did not intend to return. As a direct result, he was not eligible for the 2018 PFD. The Division's decision to deny his applications for the 2018 PFD is AFFIRMED.

DATED this 4th day of January, 2019.

By: Signed
Signature
Lawrence A. Pederson
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 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 29th day of January, 2019.

By: Signed
Signature
Lawrence A. Pederson
Name
Administrative Law Judge
Title