

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

In the Matter of)	
)	
N K & D K (MINOR))	OAH No. 18-0420-PFD
)	Agency No. 2017-050-0229/0012

DECISION AND ORDER

I. Introduction

N K filed a timely application for 2107 Alaska Permanent Fund Dividends (PFD) on behalf of himself and his minor child, D K. The Permanent Fund Dividend Division (the Division) denied Mr. K’s application initially and at the informal appeal level on the ground that he had obtained full time permanent employment and a principal home outside of Alaska during the qualifying year. The Division further determined that Mr. K did not meet the definition of Alaska resident under the applicable statutes and regulations based on his truthful answers to the question concerning intent to return to Alaska and his residency in Texas. The application for Mr. K’s minor child was denied due to Mr. K’s lack of eligibility.

Because Mr. K moved to Texas and obtained a home and full-time employment there during the qualifying year, he is not eligible for the 2017 PFD. Because he is ineligible, his daughter is also ineligible. Therefore, the Division’s decision is affirmed.

II. Facts

Mr. K is a United States citizen originally from Haiti, who moved to Alaska in June 2009.¹ He applied for, and received, Alaska PFD’s from 2001 through 2016.² In August 2016 his employer in Alaska was going through financial difficulties. Mr. K was unable to find a better job in Alaska so he transferred to Texas to work for a facility there in order to continue to supporting his family.³ Mr. K moved to No Name, Texas on August 3, 2016. He rents an apartment there and continues living in Texas and working hard to support his children and his mother.⁴

¹ Exhibit 8, pp. 1-3
² Exhibit 1 p. 5.
³ Exhibits 1, 3, Statement of Mr. K dated 5/23/18.
⁴ Testimony of Mr. K

Mr. K timely applied for the 2017 PFD on March 18, 2017. On his application, Mr. K truthfully noted, in response to Question 4, that he was absent from Alaska on the date of his application. He also answered “no” to question 4B which asks whether he intended to return to Alaska. In the box for explanation, Mr. K, again truthfully, noted:

In case I get a job I’m looking for I can go back and living in Alaska because that’s exactly the reason I left.⁵

The Division initially denied his application, and Mr. K requested an informal appeal.

At the informal appeal, the Division denied Mr. K’s application on a number of grounds, all of which were related to his move to Texas for better employment. The Division found that Mr. K was not a resident of Alaska on his date of application because he had accepted full-time permanent employment outside the state prior to the date of his application and had moved his principal home to Texas. The Division also denied D K’s application on the grounds that since Mr. K was ineligible for the 2017 PFD, his minor child was without a sponsor.⁶

Mr. K timely requested a formal hearing.⁷ In his statement, and at the hearing, it appeared that Mr. K was confused about the reasons for the denial of his and his daughter’s applications. From his statement it appeared that he interpreted the term “without a sponsor” to imply that he was not a good father working hard to provide for his child and not simply that she was not eligible because he was not eligible. A telephonic hearing on Mr. K’s appeal was held on June 26, 2018. At the hearing, Mr. K testified and explained his need to work hard to support his family. The Division was represented by Mr. Scott who explained Mr. K’s ineligibility based on his move to Texas. After hearing the explanation, Mr. K noted that he understood he may not qualify for the dividend, but expressed annoyance with the Division’s continued request for documents and information after they had determined he did not qualify.⁸

III. Discussion

Under 15 AAC 23.143(d)(4):

⁵ Exhibit 1.
⁶ Exhibit 4.
⁷ Exhibit 5.
⁸ Testimony of Mr. K.

An individual is not eligible for a dividend if, at any time from January 1 of the qualifying year through the date of application, the individual

(4) accepted full-time permanent employment in another state or country except . . . [for limited special situations not applicable here].

Mr. K accepted employment in Texas and moved to that state on August 3, 2016.

Therefore, regardless of the fact that his move was caused by his need to work to support his family, he is not eligible for the 2017 PFD. The Division's other reasons for denying Mr. K the 2017 PFD are also correct based on that move. Mr. K maintained his principal home in Texas after August 2016 which is another disqualifying action, and he was no longer an Alaska resident at the time of his application due to his completely honest answer that he could not return to Alaska unless he could secure better employment.⁹

IV. Conclusion

Mr. K is a hard working father and son who moved out of Alaska in order to support his family. Due to his move to Texas he does not qualify for the 2017 PFD, and due to his ineligibility, his minor daughter also does not qualify. The Division's decision to deny Mr. K and his child the 2017 PFD is therefore AFFIRMED.

Dated: June 28, 2018

By: Signed

Name: Karen L. Loeffler

Title: Administrative Law Judge

[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.

⁹ See AS 43.23.005(a)(2) (individual must be a state resident on the date of application for PFD); AS 43.23.095(7) (state resident means an individual who, if not present in the state, intends to return to the state and remain indefinitely); 15 AAC 23.143(d)(1) (individual is not eligible for PFD if they have maintained their principal home in another state at any time from January 1 of the qualifying year through the date of the application).

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 24th day of July, 2018.

By: *Signed*
Name: Karen L. Loeffler
Title: Administrative Law Judge