

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL
BY THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES**

In the Matter of)
)
U T) OAH No. 19-0264-SNA
) Agency No.
_____)

DECISION

I. Introduction

U T applied for Food Stamp benefits on February 11, 2019. The Division approved his application and found him eligible for \$19 per month in Food Stamp benefits. Mr. T disagreed with the benefit amount and requested a hearing.

Mr. T’s hearing was held on April 23, 2019. Mr. T represented himself and testified on his own behalf. The Division was represented by Fair Hearing Representative Jeff Miller, who testified on the Division’s behalf. The evidence produced at hearing demonstrated that Mr. T’s gross income is higher than allowed to qualify for Food Stamp benefits, and that he should never have been approved for benefits in the first place. As a result, the Division’s prior action is **AFFIRMED**.

II. Facts

A. Background Facts

Mr. T applied for Food Stamp benefits on February 11, 2019 for his one-person household. He is not disabled and is forty years old.¹ He works for Business A part-time and is paid every two weeks. At the time of his application, the gross amount of his three most recent paychecks were \$670.57, \$617.50, and \$689.25.² After accounting for the fact that he is paid every two weeks, his gross monthly pay during the time immediately preceding his application was \$1,417.05.³

Mr. T owns a duplex. He lives in one-half and rents out the other half. His monthly mortgage payment for the entire building, which includes taxes and insurance, is \$1,593.61.⁴ Mr. T rents out the other half of the duplex for \$1,800 per month.⁵

¹ Exs. 2 – 2.11.
² Ex. 4.1.
³ Ex. 3.
⁴ Mr. T’s testimony; Ex. 7.
⁵ Ex. 2.6.

B. The initial approval of Food Stamps

The eligibility technician who processed Mr. T's Food Stamp application determined that he qualified for \$19 in monthly Food Stamp benefits. She calculated that he had \$1,417.05 in work income. She found that he had a total of \$59 per month in rental income. She arrived at that total by taking the rental amount of \$1,800 and subtracting \$1,600 for the mortgage, and subtracting an additional \$141.00 for other bills.⁶ She treated the rental income as unearned income, rather than earned income, and used the Food Stamp benefit calculation process that is used for elderly (60+) or disabled individuals. This resulted in Mr. T being found eligible for \$19 in monthly Food Stamp benefits.⁷

C. Allowable Utility and Maintenance Expenses

Mr. T testified and presented receipts at hearing regarding his utility charges and rental expenses. He had the following utility charges for 2018, for the entire property: water and sewer - \$2,066.66⁸, garbage - \$365.18⁹, natural gas (Enstar) - \$1407.11¹⁰, for a total attributable to the entire property of \$3,838.95. One-half of this, \$1,919.48, is attributable to the rental unit.¹¹ This results in a monthly utility cost for the rental unit of \$159.96.

Mr. T claimed 2018 maintenance expenses of \$779.57 for the rental unit on his application.¹² Of those claimed expenses, the Division disagreed with the allowance of expenses for a drone (\$69), security camera (\$199), and propane (\$14.95). Mr. T explained that the security camera was necessary because the property had been broken into, and that the drone was necessary to inspect the gutters and roof.¹³ Mr. T's explanation demonstrated the need for the security camera. However, the drone is an unnecessary expense, as is the propane. Accordingly, Mr. T is entitled for expenses in the amount of \$695.62 (\$779.57 (yearly total) - \$69 (drone) - \$14.95 (propane)). This results in a monthly maintenance cost for the rental unit of \$57.97.

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⁶ Ex. 3.

⁷ Exs. 4.2 – 4.3.

⁸ April 23, 2019 filing, p. 11.

⁹ April 23, 2019 filing, p. 12.

¹⁰ April 23, 2019 filing, p. 35.

¹¹ Mr. T testified that the only utility that the renter paid for separately was electricity, but that all other costs were for the entire property and paid by him.

¹² Ex. 2.6. For a copy of the accompanying receipts, *see* April 23, 2019 filing, pp. 13 – 33.

¹³ Mr. T's testimony.

III. Discussion

At hearing, the Division argued that the eligibility technician used the wrong methodology in calculating Mr. T's Food Stamp benefit amount, and that he should not have qualified for Food Stamp benefits to begin with. That argument was based on the eligibility technician's treatment of the entire property as though it was rental property, when the eligibility technician took the entire mortgage amount and deducted it from the rental income, instead of apportioning the mortgage expense between Mr. T's residence and the rental unit.

The Division's argument is well taken. Because the property is a duplex, where Mr. T resides in one half and the other half is rented out, the mortgage/taxes/insurance payment and joint utility payments should have been divided in half, and that half should have been deducted from the rental payment in determining how much income was derived from the rental property. The allowed maintenance expenses would then be deducted. Using that methodology, Mr. T's monthly rental income is:

Gross rental income:	\$1,800.00
Less one-half mortgage/taxes/ins:	<\$ 796.80>
Less utilities:	<\$ 159.96>
Less maintenance expenses:	<u><\$ 57.97></u>
Net Monthly Rental Income	\$ 785.27

The eligibility technician made two other significant mistakes. She used the net income test for an elderly (60+) or disabled applicant.¹⁴ Mr. T is neither. She also treated the rental income as unearned income, when it should have been treated as earned income.¹⁵ For Mr. T to qualify for any amount of Food Stamp benefits, as a household without a disabled or elderly member, he would first have to satisfy the monthly gross income test.¹⁶ The maximum gross monthly income that a one-person household, such as Mr. T's, could make is \$1,645.¹⁷ Mr. T's gross monthly income totals \$2,202.32 (\$1,417.05 from his job, and \$785.27 in rental income). This means that Mr. T was not eligible for any amount of Food Stamp benefits when he applied.

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¹⁴ Exs. 4.2 – 4.3.

¹⁵ 7 C.F.R. § 273.9(b)(1)(ii).

¹⁶ 7 C.F.R. § 273.9(a).

¹⁷ *Alaska Food Stamp Manual Addendum 4.*

IV. Conclusion

Mr. T was erroneously approved for Food Stamp benefits. As a result, he does not have a factual or legal basis for challenging the Division’s determination that he was eligible for \$19 per month in Food Stamp benefits. Accordingly, that determination is AFFIRMED.

Dated: April 30, 2019

Signed _____
Lawrence A. Pederson
Administrative Law Judge

Adoption

The undersigned, by delegation from the Commissioner of Health and Social Services, adopts this Decision, under the authority of AS 44.64.060(e)(1), 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 14th day of May, 2019.

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

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