

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

In the Matter of)	
)	
D M. T)	OAH No. 19-0616-PFD
)	Agency Nos. 2017-027-1763
<u>2017 & 2018 Permanent Fund Dividends</u>)	2018-063-3605

DECISION

I. Introduction

After D T timely applied for 2017 and 2018 Permanent Fund Dividends (PFDs), the Permanent Fund Dividend Division denied her applications primarily on the basis that, during the qualifying period, she appeared to have accepted full-time employment in another country. Ms. T initiated the informal appeal process on both dividends, but the informal appeals were resolved against her on February 26, 2019. She had 30 days to appeal to the formal level. Over 90 days later, with no explanation for the delay, Ms. T requested a formal hearing by correspondence. The division moved to dismiss on the basis of untimeliness. The division’s motion is granted because Ms. T missed the deadline to appeal and has not shown any basis to waive the deadline in her case.

II. Facts

The facts in this case are undisputed. Ms. T, who is now 62, is a longtime Alaskan who has received a dividend annually since the inception of the program. For 2017 and 2018, however, information on her applications coupled with information developed by investigation seemed to indicate that beginning in mid-2016, Ms. T had been commuting across the border and working full-time for the Business A in Yukon Territory.¹ If true, this fact would likely make her ineligible for subsequent dividends under regulation 15 AAC 23.143(d)(4). The PFD Division denied her applications in September of 2018.²

Ms. T initiated the department’s informal appeal process. An adverse decision was issued to her, sent to the correct address, on February 26, 2019.³ It was sent with a form for requesting a formal appeal hearing, which told her the deadline to submit that form was March 28, 2019.⁴

¹ Ex. 2, p. 4.
² Ex. 3.
³ Ex. 5.
⁴ The form is found at Ex. 6.

Two months after the deadline, on June 26, 2019, Ms. T mailed in the formal appeal form, which was received the following day.⁵ She asked for an appeal by correspondence only. In accordance with AS 44.64.030, the Department of Revenue referred the appeal to this office.

By notice dated July 13, 2019, the parties were given until August 12, 2019 to submit any additional materials they would like considered, and until August 29, 2019 to respond to one another's submissions. The PFD Division moved to dismiss the appeal as untimely. Ms. T submitted nothing in response to the timeliness argument, although she did send in some materials relating to her residency.

III. Discussion

By regulation, the time limit to further appeal an informal appeal decision is "within 30 days after the date the . . . decision is issued."⁶ There is no dispute that Ms. T missed that deadline.

The 30-day appeal window does not apply if the applicant "demonstrates a reasonable cause for the failure to file within this period."⁷ Similarly, the administrative law judge may waive the appeal deadline if adherence to it "would work an injustice."⁸

Ms. T has done nothing to demonstrate reasonable cause for the delay. There is also nothing in the record to suggest that adhering to the appeal deadline would work an injustice.

The deadline for initiating an appeal serves an important purpose. It prevents the unlimited revisiting of decisions long in the past. Historically, the appeal deadlines have only been set aside in particularly compelling circumstances,⁹ and none have been shown here.

IV. Conclusion

Ms. T did not timely appeal the denial of her 2017 and 2018 PFD applications. Her appeal is therefore dismissed.

DATED this 11th day of September, 2019.

By: Signed _____
Christopher Kennedy
Administrative Law Judge

⁵ Ex. 6.

⁶ 15 AAC 05.030(a).

⁷ 15 AAC 05.010(b)(5).

⁸ 15 AAC 05.030(k).

⁹ Prior decisions regarding the enforcement or waiver of PFD appeal deadlines can be found at <http://doa.alaska.gov/oah/Decisions/pfd.html>.

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 Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 8th day of October, 2019.

By: Signed
Signature
Christopher Kennedy
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.]