

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

In the Matter of)
)
B Q) OAH No. 18-1297-PFD
) Agency Nos. 2018-027-8090
)
_____)

DECISION

I. Introduction

B Q appeals the denial of his 2018 Permanent Fund Dividend (PFD) application. The Permanent Fund Dividend Division (Division) denied his application, after determining he was not an Alaska resident. Mr. Q then requested a Formal Hearing by Correspondence.¹

Based on the information provided, the Division’s decision is affirmed.

II. Facts

Mr. Q lived in Alaska and he received PFDs consistently beginning in 1990.² Mr. Q mailed his 2018 PFD application from Eugene, Oregon on February 7, 2018.³ The Division received the application on February 9, 2018.⁴

Question 2 of the application asks, “Are you physically present in Alaska today?” The question is accompanied by a special instruction and warning that reads:

Answer **No** if you are completing this application from someplace other than within Alaska. Failure to disclose a reportable absence constitutes fraud.

Mr. Q truthfully checked “No” and described his absence as “Moved to Oregon[.]”⁵

Based on the information Mr. Q provided, the Division denied Mr. Q’ application on July 27, 2018. The Division reasoned that Mr. Q was absent from the state when he filed the application and Mr. Q’ PFD application was denied because he “left Alaska on September 20, 2017 to move to Oregon.”⁶

¹ Each side was given until January 24, 2019 to submit any documents or explanations to OAH; Each side was then given until February 7, 2019 to provide written response to what was submitted by the other side. The Division provided a position statement and Exhibits 1-6; Mr. Q did not provide anything.

² Ex 7. It appears Mr. Q received his first PFD in 1985 but didn’t not receive another one until 1990. From 1990 to 2017, Mr. Q received a PFD.

³ Exhibit 1 at 3.

⁴ Exhibit 1 at 1.

⁵ Exhibit 1 at 1-2.

⁶ Exhibit 2 at 1.

Mr. Q requested an informal appeal on July 30, 2018.⁷ In his informal appeal request, Mr. Q checked the “Yes” box indicating that the denial letter contained incorrect information. He explained, “instead of September 20, 2017[,] it is August 20[,] 2017.”⁸ In the **Other considerations** section, Mr. Q wrote “we intend, me and my wife to stay in Alaska for good our official address is: Address A, City A, Alaska.”⁹[sic]

The Division denied Mr. Q’ informal appeal.¹⁰ In its denial, the Division cited seven “key facts” as the basis for its decision. Mr. Q addressed each in his request for a formal hearing.

First, the Division found that Mr. Q mailed his paper application from City B, Oregon.¹¹ The Division pointed out Mr. Q listed the City B, Oregon address and provided the explanation for his absence as “Moved to Oregon.”¹² In his formal appeal request, Mr. Q agreed that was true.¹³

Second, the Division found Mr. Q did not demonstrate the requisite intent to remain an Alaskan resident indefinitely from January 1, 2017 throughout the date of his application.¹⁴ Mr. Q disagreed with these conclusions and wrote “My goal was to come back to Alaska (I am here now).”¹⁵

Third, the Division identified the change of Mr. Q’ date from September 20, 2017 to August 20, 2017.¹⁶ The Division noted that although Mr. Q provided mailing and physical addresses in City A through his informal appeal, he did not provide any other documentation to support his claim of residency. Mr. Q wrote that “I made a correction on date.”¹⁷

Fourth, the Division found that Mr. Q did not prove he intended to remain in Alaska indefinitely through all of 2017 and throughout the date of his application.¹⁸ Mr. Q wrote “I am here and intend to stay”¹⁹[sic]

⁷ Exhibit 3.

⁸ Exhibit 3 at 2.

⁹ Id.

¹⁰ Exhibit 4.

¹¹ Exhibit 4 at 1. The return address on the envelope is in City B, Oregon, but the envelope is postmarked with City C, Oregon.

¹² Id.

¹³ Exhibit 5 at 2.

¹⁴ Exhibit 4 a 1.

¹⁵ Exhibit 5 at 2

¹⁶ Exhibit 4 at 2.

¹⁷ Exhibit 5 at 2. There is also something illegible about the location of an address in City A where he resided.

¹⁸ Exhibit 4 at 2.

¹⁹ Exhibit 5 at 2.

Fifth, the Division found that Mr. Q was ineligible because on the date of his application he explained his absence as a result of moving to Oregon.²⁰ His move was not one allowed under AS 43.23.008(a). Mr. Q’ formal appeal affirmed that fact was true.²¹

Sixth, the Division found Mr. Q was not a state resident on the date of his filing because he had already moved to Oregon.²² Mr. Q disagreed: he wrote “I moved but temporary move”²³ [sic]

Finally, the Division concluded Mr. Q was ineligible as a matter of law.²⁴ Mr. Q indicated disagreement with this in in his formal appeal by checking the “Not True” box.²⁵

Also, in his application for the Formal Appeal, Mr. Q wrote his explanation for why he believed he was eligible for the 2018 PFD.

“My wife and I moved to Oregon to see if my wife would like her job there. She didn’t like it there. She and I decided that Alaska is our home. I B Q lived in Alaska since 1984 and my wife N Q has lived in Alaska since 1994. I registered by 2002 GMC truck in Oregon because my Alaska plates expired. I answered the questions the best I could.” [sic]²⁶

III. Discussion

As the individual challenging the Division’s decision, it is Mr. Q’ burden to establish that it is more likely than not that he is eligible for a 2018 PFD.²⁷

To qualify for a PFD, a person must be an Alaska resident both on the date of the application and during the entire qualifying year.²⁸ 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.²⁹ Residency is extinguished when the individual acts in a manner inconsistent with an intent to remain an Alaskan resident.³⁰ “An individual who on the date of application knows [he or she] will be moving from Alaska at a specific time to a specific destination for a reason other than one

²⁰ Exhibit 4 at 2.

²¹ Exhibit 5 at 2.

²² Exhibit 4 at 2.

²³ Exhibit 5 at 2.

²⁴ Exhibit 4 at 2.

²⁵ Exhibit 5 at 2.

²⁶ Exhibit 5 at 2.

²⁷ 15 AAC 05.030(h).

²⁸ AS 43.23.005(2) and (3).

²⁹ AS 43.23.095(7).

³⁰ AS 01.10.055 (c).

allowed by AS 43.23.008(a) does not have the intent to remain indefinitely in Alaska and is not eligible for a dividend.”³¹

Mr. Q admits he left Alaska August 17, 2017.³² When Mr. Q applied for his 2018 PFD, he was physically in City B, Oregon.³³

Since Mr. Q was not in Alaska at the time of his application, the question becomes whether Mr. Q extinguished his residency beginning August 20, 2017, or if he maintained the requisite intent to remain an Alaskan resident despite living in Oregon.³⁴

Even though Mr. Q argues that the move to Oregon was only temporary, he provides no evidence that the family maintained residency in Alaska during his time in Oregon. Mr. Q did not behave in a manner consistent with someone who was maintaining a residence in Alaska. He did not claim to maintain a residence in Alaska, nor did he provide evidence of such through a lease or rental agreement in Alaska. He did not present evidence of a storage unit to show his absence from Alaska was temporary. At the time he left for Oregon, there is no evidence Mr. Q had a return date to Alaska. He did not present evidence that he had a voter’s registration card or an Alaska driver’s license.

On the contrary, Mr. Q wrote on his application he and his wife moved to Oregon for her work. “Moving out of Alaska for the purpose of a full-time, permanent job in another state, [and] maintaining one’s principal home outside of Alaska, are all specifically defined factors that cause a person to be ineligible for a PFD.”³⁵ Mr. Q lived in City B, Oregon, at the time of his PFD filing and had an Oregon mailing address.³⁶ Mr. Q defined his absence from Alaska as a “move to Oregon.”³⁷ He took his vehicle to Oregon and registered his vehicle in Oregon.³⁸

The family was going to wait and see if they liked Oregon. And while it appears, ultimately, that they preferred Alaska to Oregon and returned, this is not evidence that at the time Mr. Q left, he intended to maintain his residency in Alaska. In order for him to maintain his Alaskan residency, the intent to remain must have been formed at the time he was leaving

³¹ 15 AAC 23.143(h).

³² While his original application stated it was September 20, 2017, there is no reason to dispute his correction.

³³ Exhibit 5 at 2.

³⁴ AS 01.10.055; AS 43.23.095(7).

³⁵ *In re A X et al*, OAH No. 14-1716-PFD, available at <https://aws.state.ak.us/OAH/Decision/Display?rec=5678> See also 15 AAC 23.143(d)

³⁶ Exhibit 1 at 1.

³⁷ Exhibit 1 at 2.

³⁸ Exhibit 5 at 2.

Alaska; it could not be developed afterward once the family determined Mr. Q' wife did not like her new job in Oregon. Therefore, he is ineligible for the 2018 PFD.

IV. Conclusion

Mr. Q moved to Oregon in 2017. He did not present evidence that he had intent to indefinitely remain an Alaskan residence at the time he applied for his PFD, so he does not qualify for the 2018 PFD. The denial is affirmed.

Dated: March 4, 2019

Signed _____
Hanna Sebold
Administrative Law Judge

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.

DATED this 29th day of March, 2019.

By: *Signed* _____
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.]