

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

In the Matter of)	
)	
Z K. D)	OAH No. 20-0690-PFD
)	Agency No. 2019-066-1767
_____)	

DECISION

I. Introduction

Z K. D applied for the 2019 PFD. The Permanent Fund Division (Division) denied his application. Mr. D requested an informal appeal of the denial, which was denied on July 14, 2020. Mr. D then requested a formal appeal on August 3, 2020. Mr. D’s formal appeal hearing was scheduled for September 23, 2020. Mr. D did not appear for the scheduled hearing. Pursuant to Alaska regulation 15 AAC 05.035(j), this case was submitted for decision based upon the record.

After a careful review of that record, relying on the information provided by Mr. D in his application and supplemental schedule, the evidence shows that Mr. D was not eligible for the 2019 PFD, because he was not an Alaska resident during the entirety of 2018, the qualifying year for the 2019 PFD. Consequently, the Division’s denial of Mr. D’s application for the 2019 PFD is **AFFIRMED**

II. Facts

Mr. D applied for the 2019 PFD.¹ His application stated that he had claimed residency in Washington state in 2018 for the purposes of filing for a divorce, dissolution, or a legal separation.² It further provided that he had a vehicle registered in Washington state, and that his Alaska residency began on March 27, 2018.³

The Division denied his application on March 6, 2020, because Mr. D’s Alaska residency began March 27, 2018, whereas “[t]o be eligible for a 2019 PFD, an applicant must have established Alaska residency, for PFD purposes, prior to January 1, 2018.”⁴

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

Mr. D requested an informal appeal on March 16, 2020. His appeal request did not state any reasons why he was appealing.⁵ During the informal appeal process, Mr. D provided the Division with a completed “2019 Adult Supplemental Schedule,” which stated that he had not been in Alaska for at least 72 consecutive hours in 2017, that his Alaska residency began on April 2, 2018, that he had worked in a permanent fulltime job in Washington state since December 31, 2017, that he filed for a divorce/dissolution/legal separation in Nevada in 2018, and that he had had both a Washington state driver’s license and a vehicle registered in Washington state since December 31, 2017.⁶ He also provided a photocopy of his passport and his 2019 W2 from an Alaska employer.⁷ Alaska Department of Labor and Workforce Development records show that Mr. D was not employed in Alaska until the third quarter of 2018.⁸

The Division denied Mr. D’s informal appeal on July 14, 2018. The reasons stated were that he did not become an Alaska resident, for PFD purposes, before January 1, 2018, that he filed for a divorce/dissolution/legal separation in another state in 2018, and that he had a permanent fulltime job in another state in 2018.⁹

Mr. D requested a formal appeal on August 3, 2020.¹⁰

III. Discussion

In formal hearings regarding PFDs, the individual challenging the Division’s initial decision “has the burden of proving that the action . . . is incorrect.”¹¹ This has to be proven by the preponderance of the evidence,¹² meaning that Mr. D must show that the Division’s conclusion that he was not eligible for the 2019 PFD because he was not an Alaska resident during the entire qualifying year, was *probably* incorrect.

In order to be eligible for a PFD, an applicant must have been an Alaska resident during the entire qualifying year and that residency must have started before January 1 of the qualifying year.¹³ 2018 was the qualifying year for the 2019 PFD.¹⁴ This means that, in

⁵ Ex. 3.
⁶ Ex. 5, pp. 1 – 2.
⁷ Ex. 5, p. 4.
⁸ Ex. 9.
⁹ Ex. 6, pp. 1 – 2.
¹⁰ Ex. 7.
¹¹ 15 AAC 05.030(h).
¹² 2 AAC 64.290(c).
¹³ AS 43.23.005.
¹⁴ AS 43.23.095(6).

order for Mr. D, to prevail, he must prove that he was an Alaska resident during the entire year of 2018 and that his residency began before January 1, 2018.

The evidence in the record regarding when Mr. D’s Alaska residency began consists of his own statements, which were contained in his 2019 PFD application and the “2019 Adult Supplemental Schedule” that he filed as part of his informal appeal. Both of those documents show that he did not start residing in Alaska until either March or April 2018. This, in and of itself, makes him ineligible for the 2019 PFD.¹⁵

Mr. D’s own documents also show that he filed for a divorce/ dissolution/legal separation in 2018 in another state (either Washington or Nevada, his application says Washington, the supplemental schedule says Nevada), which would have required that he be a resident in the state, where he filed at the time of filing.¹⁶ In other words, by filing an action for a divorce/dissolution/legal separation in another state, he could not have been an Alaska resident at that time.¹⁷ Further, he had a fulltime permanent job in another state sometime after December 1, 2017. Both the filing of a divorce action in 2018 and having a fulltime permanent job in another state in 2018 are incompatible with being an Alaska resident during the entire year of 2018.¹⁸

Mr. D had the burden of proof in this case. He did not meet that burden. Instead, his own application and supplemental filed documents show that he was not eligible for the 2019 PFD, because he was not an Alaska resident during the entirety of 2018, the qualifying year for the 2019 PFD.

IV. Conclusion

The Division’s denial of Mr. D’s application for the 2019 PFD is AFFIRMED.

Dated: October 7, 2020

Signed

Lawrence A. Pederson
Administrative Law Judge

¹⁵ AS 43.23.005(a)(3); 15 AAC 23.143(b) and (d)(1).

¹⁶ Nevada: N.R.S. 125.020; Washington: RCWA 26.09.030.

¹⁷ 15 AAC 23.143(d)(15).

¹⁸ See 15 AAC 23.143(d)(4) and (15).

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 3rd day of November, 2020.

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.]

