

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

In the Matter of	)	
	)	
S N. T, SR.	)	OAH No. 20-0942-PFD
	)	Agency No. 2020-067-4236
<u>2020 Permanent Fund Dividend</u>	)	

**DECISION**

**I. Introduction**

S T of City A, Alaska applied for a 2020 Permanent Fund Dividend (PFD) by hand-delivering an application to the Anchorage PFD office on July 21, 2020. Because PFD applications for 2020 were due by April 30, the Permanent Fund Dividend Division denied the application initially and at the informal appeal level on the basis of untimeliness. Mr. T requested a formal hearing by correspondence.

The division’s denial is affirmed because the application was filed late and did not qualify for any exception to the deadline. The law leaves no discretion to make an exception for Mr. T.

**II. Facts**

S T is a 74-year-old resident of the village of City A who has been receiving dividends since the inception of the program.<sup>1</sup> There is no evidence that he is disabled in any way, and no claim of disability has been made on his behalf. He has not been a member of the armed forces in 2019-20.<sup>2</sup>

There is no dispute that Mr. T did not file an application during the 2020 application period for PFDs.<sup>3</sup> He has explained that he filled out an application ahead of the deadline but lost it before mailing it.<sup>4</sup> He admits that he should have found another application and sent it in, but he did not.<sup>5</sup> He signed and filed a paper application in Anchorage on July 21, 2020, and also mailed an identical copy of the same application to the Juneau PFD address a week later.<sup>6</sup>

The deadline for filing in 2020 had been extended on account of the pandemic, but only until April 30. The Division denied Mr. T’s application because it was not delivered or

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<sup>1</sup> Ex. 1, p. 10.  
<sup>2</sup> Ex. 1, p. 1. *Cf.* AS 43.23.011(c).  
<sup>3</sup> Ex. 3, p. 2.  
<sup>4</sup> *Id.*  
<sup>5</sup> *Id.*  
<sup>6</sup> Ex. 1.

postmarked within the April 30, 2020 deadline.<sup>7</sup> Mr. T's informal appeal, in which he submitted no evidence, was unsuccessful.<sup>8</sup> On November 16, 2020, he requested a formal hearing by correspondence.<sup>9</sup>

By notice dated November 30, 2020, Mr. T was given until January 11, 2021 to send any additional documents or correspondence for consideration in this formal appeal. The PFD Division was given the same deadline. Each party was given until January 25, 2021 to respond to any documents received from the other. The Division filed a position statement with exhibits. Mr. T filed nothing.

### **III. Discussion**

The Alaska Statute that sets the application period for dividends is AS 43.23.011. Under that statute, the period for applying for a dividend ends on March 31 of the dividend year. In 2020, because of the pandemic, the Legislature adjusted that deadline to April 30, 2020, but the deadline provisions were not modified in any other way.<sup>10</sup>

In passing the statute, the legislature provided only two exceptions. To be eligible for either of them, the applicant has to be a member of the armed services.<sup>11</sup> Mr. T's application shows that he was not in the armed forces, and so the April 30 deadline was absolute for him. Elsewhere in the PFD statutes, there are provisions that effectively allow certain minors and disabled people to apply after the deadline,<sup>12</sup> but again, Mr. T is not in these categories and thus must show he applied by April 30, 2020. He admits that he did not.

Mr. T is clearly eligible for dividends, and it is a shame that he did not apply on time this year. However, the Department of Revenue is bound by the statutes laid down by the Legislature and by its own regulations, which set a black-and-white deadline. The Department is not allowed to make exceptions because it sympathizes with people or because they are longtime Alaskans. Under the law, the Department of Revenue has no discretion in this matter, and it cannot grant Mr. T a dividend.

### **IV. Conclusion**

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<sup>7</sup> Ex. 2.

<sup>8</sup> Ex. 4, pp. 1-2.

<sup>9</sup> Ex. 5.

<sup>10</sup> § 10, ch 10 SLA 2020 (deadline adjusted in uncodified law).

<sup>11</sup> AS 43.23.011(b), (c).

<sup>12</sup> *See* AS 43.23.055(3), (7).

Because his application was filed after the deadline and did not qualify for any exception to the deadline, the Department of Revenue cannot grant S T a dividend for 2020. This decision does not affect his ability to qualify in 2021 or future years.

DATED this 28<sup>th</sup> day of January, 2021.

By: Signed  
Christopher Kennedy  
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 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 23<sup>rd</sup> day of February, 2021.

By: Signed  
Signature  
Cheryl Mandala  
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.]