

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

IN THE MATTER OF )  
 )  
 R. K. ) Case No. OAH-07-0672-CSS  
 ) CSSD Case No. 001065946

---

**DECISION & ORDER**

**I. Introduction**

The custodian, C. C., appeals the denial of a request for modification review issued by the Child Support Services Division (CSSD) on October 23, 2007. Administrative Law Judge Dale Whitney of the Office of Administrative Hearings heard the appeal on December 6, 2007. Ms. C. did not appear or show cause for her failure to appear; this decision is therefore based on the record in accordance with 15 AAC 05.030(j). The obligor, R. K., also did not appear. Andrew Rawls represented CSSD by telephone. The children are J. K. (DOB 00/00/94) and S. K. (DOB 00/00/97). The administrative law judge affirms CSSD's decision.

**II. Facts**

Mr. K.'s support obligation had previously been set at \$745 per month for two children. When Ms. C. requested a modification review, CSSD denied the request because it appeared that an Oregon court had placed the children in Mr. K.'s custody in a temporary order.<sup>1</sup> At a settlement conference hearing, the Juvenile Department of the Multnomah County Circuit Court dismissed the matter, including the temporary order, based on a finding that "there is no need for juvenile court involvement. Father is providing adequate care for children in Alaska."<sup>2</sup> Ms. C. wrote to CSSD that she had traveled to Alaska and returned to Oregon with the children on October 10, 2007.<sup>3</sup> CSSD is satisfied that the children are back in Ms. C.'s custody.<sup>4</sup>

After determining that the children were in Ms. C.'s custody, CSSD reviewed income information for Mr. K. that it obtained from the Alaska Department of Labor. Based on wage information for the last half of 2006 and first half of 2007, CSSD determined that Mr. K.'s support obligation would be \$714 per month for two children, four percent less than the current amount. Neither party submitted any evidence to the contrary.

---

<sup>1</sup> Exhibit 3.

<sup>2</sup> Exhibit 5, page 4.

<sup>3</sup> Exhibit 5, page 1.

<sup>4</sup> CSSD's prehearing brief.

### **III. Discussion**

According to Civil Rule 90.3(h), an existing support order may be modified upon a showing of a material change of circumstances. A material change of circumstances is presumed to exist if the resulting support amount would change by more than fifteen percent. At a formal hearing, the person requesting the hearing has the burden of proving that the division's decision was in error.<sup>5</sup>

The parties have not disputed CSSD's assertion that Mr. K.'s support obligation would not change by more than fifteen percent if support were calculated according to his current income. Because Ms. C. has not met her burden of proving that CSSD's decision to deny her modification request was in error, the decision should be affirmed.

### **V. Order**

IT IS HEREBY ORDERED that the October 23, 2007, decision of the Child Support Services Division to deny Ms. C.'s request for modification review be AFFIRMED.

DATED this 20<sup>th</sup> day of December, 2007.

By: Signed \_\_\_\_\_  
DALE WHITNEY  
Administrative Law Judge

---

<sup>5</sup> 15 AAC05.030(h).  
OAH No. 07-0672-CSS

## 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.

Under AS 25.27.062 and AS 25.27.250, the obligor's income and property are subject to withholding. Without further notices, a withholding order may be served on any person, political subdivision, department of the State, or other entity.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 25.27.210 and Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 10th day of January, 2008.

By: Signed  
Signature  
Dale Whitney  
Name  
Administrative Law Judge  
Title

[This document has been modified to conform to technical standards for publication.]