

\$41,730.³ In 2006, Ms. T. earned \$19,758 and received unemployment insurance benefits and an Alaska Permanent Fund dividend, for total income of \$24,677.⁴ In 2007, she earned \$22,955 and again received unemployment insurance benefits and an Alaska Permanent Fund dividend, for total income of \$25,851.⁵

III. Discussion

In this case, the division established Mr. P.'s support obligation and issued an amended administrative child support order because Ms. T. had received public assistance benefits. Mr. P. appealed, arguing that he is the primary custodian and that he should not be required to pay support.

A parent has primary custody if the other parent has custody less than 30% of the time. A parent has shared custody if the other parent has custody at least 30% of the time, but not more than 70% of the time.⁶ In the case of primary custody, the primary custodian support obligation to other parent is generally zero, but in the case of shared custody both parents' income must be compared, and either parent may be required to pay support to the other, depending on their relative incomes.

At the hearing on appeal, Ms. T. testified that E. generally spends the weekends with her, up to three nights per week. Mr. P. and his sister, A. P., testified that E. spends the majority of his nights in their joint residence, and affidavits submitted by Mr. P. support their testimony. The clear preponderance of the evidence is that Mr. P. has custody more than 50% of the time; however, it may be that E. spends more than 30% of the time with his mother. For this reason, it cannot be determined whether Mr. P. has primary or shared custody. After the hearing, the division reviewed the parties' income information and determined that even if Mr. P. has shared custody (*i.e.*, if Ms. T. has custody for more than 30% of the time), Ms. T. would not be entitled to a support payment under the standard child support calculations of Civil Rule 90.3.⁷

IV. Conclusion

Mr. P. has had custody more than 50% of the time since the parties' separated and at the parties' current income levels he does not owe any ongoing child support to Ms. T. Arrears and amended child support order should be set at zero.

³ Ex. 8, p. 2.

⁴ Ex. 7, p. 3.

⁵ Ex. 8, p. 3.

⁶ See 15 AAC 125.070(a), (b); Civil Rule 90.3(f)(1), (2).

CHILD SUPPORT ORDER

The Amended Administrative Child Support and Medical Support Order dated October 23, 2007, is **AMENDED** as follows; in all other respects, the Modified Administrative Child Support and Medical Support Order dated October 23, 2007, is **AFFIRMED**:

1. Mr. P.'s arrears are set at ZERO dollars, for the months from September 1, 2006, through January 31, 2008.

2. Amended ongoing child support is set at ZERO dollars, effective February 1, 2008.

DATED: January 25, 2008.

Signed

Andrew M. Hemenway
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.

Under AS 25.27.062 and AS 25.27.250, the obligor's income and property are subject to withholding. Without further notice, 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 Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 14th day of February, 2008.

By: *Signed*

Signature

Andrew M. Hemenway

Name

Administrative Law Judge

Title

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