

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

In the Matter of)	
)	
C. X. K.)	OAH No. 24-0681-PFD
)	
2023 Permanent Fund Dividend)	

DECISION

I. Introduction

C. X. K. appeals the denial of his 2023 Permanent Fund Dividend (PFD). At the initial eligibility level, Mr. K. was denied his 2023 PFD because he failed to provide evidence or documentation to show that his application was received prior to March 31, 2023. At the informal appeal stage, the Division upheld the denial of his 2023 application on the basis that he did not ensure timely filing of his application. Mr. K. subsequently requested a formal appeal. His appeal was received 144 days (4 months, 21 days) past the May 13, 2024, appeal deadline. Prior to the hearing held on November 27, 2024, the Division filed a motion to dismiss the appeal as untimely. At the hearing Mr. K. was able to respond through his own testimony and his witness' testimony.¹ Exhibits 1-8 were admitted into evidence.² Mr. K. did not provide any documentary evidence.

This decision concludes that because Mr. K. did not present a reasonable cause for his failure to file his appeal within the time frame, and because dismissing the matter did not work an injustice, the appeal must be dismissed.

II. Facts

Mr. K.'s 2023 PFD application was received by fax on April 7, 2023, from the tribal office of Native Village A.³ The application was signed and dated 3/29/23, and at the top of the application is a handwritten note stating "mailed 3/29/23".⁴

On October 13, 2023, the Division issued a Notice of Denial to Mr. K. based upon a determination that his application was received on April 7, 2023, and he had not provided

¹ Testimony of C. K. *See also*, Testimony of E. K.

² Exhibits 1-7 were submitted prior to the hearing. The record remained open for 2 business days following the hearing in order to accept, by mutual agreement, Exhibit 8 and any responses thereto.

³ Div. Ex. 1, p. 1.

⁴ Div. Ex. 1.

documentation or evidence to show his 2023 application was submitted on or before the March 31, 2023 deadline.⁵ Mr. K. filed a timely informal appeal signed October 19, 2023, and received by the Division on October 30, 2023.

His informal appeal stated - “[a]pplication was mailed out on 3/29/23 as dated on application” and that the mail system is slow as it goes to “City A-City B-Anchorage-then City C.”⁶ It also stated – “[a]pplication was mailed same day as mothers went out.”⁷

On March 1, 2024, the Division initiated an Informal Conference by Correspondence.⁸ The letter requested that Mr. K. provide either the enclosed copy of the necessary paperwork to allow for a late filing due to disability, or proper paperwork to show the Hostile Fire/Imminent Danger pay exception applied to him. It also requested that he answer the question about whether if at any time since December 31, 2021, he was an active duty member of the U.S. Armed Forces or activated as a member of the U.S. Guard or Reserve.⁹ Mr. K. timely responded by providing documentation showing he was discharged from the military in 2003.¹⁰ The documentation submitted did not prove that Mr. K. qualified for an exemption to the March 31, 2023 filing deadline.

On April 12, 2024, the Division issued an informal appeal decision upholding the earlier denial. The decision also told him how to request a formal appeal and that he was required to do so within 30 days of the April 12, 2024 decision.¹¹ A Formal Appeal Request Form was included with the decision and a large box with the May 12, 2024 deadline is stamped on the first page of the form.¹²

A letter signed by Mr. C. K. was addressed to Governor Dunleavy. The letter was dated May 10, 2024, and received by the Division on June 17, 2024.¹³ The letter stated that Mr. K. did not get his PFD, that he filed an appeal, and that he had received no word back. He states, among other thing, that the postmaster stamped “my app” April 7, when I mailed

⁵ Div. Ex. 2.

⁶ Div. Ex. 3, p.2

⁷ *Id.*

⁸ Div. Ex. 4.

⁹ Div. Ex. 4, p. 1.

¹⁰ Div. Ex. 4, p. 4.

¹¹ Div. Ex. 5, p. 2.

¹² Div. Ex. 7, p. 1.

¹³ Div. Ex. 4, p. 5.

it in March and that the postmaster is now suffering from a bad medical condition and that people never get their PFD due to his unprofessional work.

Another letter dated September 10, 2024, and received by the Division on September 16, 2024, stated “I’m still waiting for my 2023 PFD. I did all the appeal forms.”¹⁴ Mr. K.’s letter reiterated that the postmaster didn’t stamp the envelope until April.

On September 20, 2024, Mr. K. signed and dated his formal appeal request form, and it was received by the Division on October 4, 2024. In a handwritten letter attached to the form Mr. K. states, “I overlooked this form and it says stamped May 12, 2024.”¹⁵

III. Discussion

By regulation, the time limit to further appeal an informal appeal decision is “within 30 days after the date the ... decision is issued.”¹⁶ There is no dispute that Mr. K. missed that deadline.

The 30-day appeal window does not apply if the applicant “demonstrates a reasonable cause for the failure to file within this period.”¹⁷ Similarly, the administrative laws judge may waive the appeal deadline if adherence to it “would work an injustice.”¹⁸

During the November 27, 2024, hearing by both Mr. K. and E. K. presented testimony that the best reason they could offer for missing the appeal date came down to Mr. K. not looking at his mail, in which the PFD appeal notice was received, prior to his trip out of town, likely to City B.¹⁹ At some point upon his return from his trip, E. saw the appeal notice and recommended that Mr. K. send the appeal in anyway. The only solid explanation Mr. K. could offer as to why he did not review his mail before he left on his trip was that it was a busy time of the year for him.²⁰

A review of the letters sent by Mr. K. offer nothing to support reasonable cause for the delay either. In his May 10, 2024, letter, he claims he has heard nothing about his [informal] appeal.²¹ However, the April 12, 2024, Informal Appeal Decision would likely have been sitting in the mail he did not review. Further, his September 10, 2024, letter

¹⁴ Div. Ex. 6.

¹⁵ Div. Ex. 7, p.3.

¹⁶ 15 AAC 05.030(a).

¹⁷ 15 AAC 05.010(b)(5).

¹⁸ 15 AA 05.030(k).

¹⁹ Testimony of C. K. *See also*, testimony of E. K..

²⁰ Testimony of C. K..

²¹ Div. Ex. 4, p. 5.

claims he filed “all the appeal forms;” however, his formal appeal form is dated September 20, 2024.²² Mr. K. never claims that he did not receive the informal appeal decision in the mail timely, and the evidence appears to support the position that he merely failed to look at what he did receive in the mail.

None of the testimony or evidence presented offers a reasonable explanation for not timely reviewing the mail he received from PFD and waiting until over 144 days to read the mail and file his appeal.

Since the May 10, 2024, letter was signed and possibly sent within the 30-day period to request a formal appeal, an evaluation of the letter was conducted to determine if the letter could be construed as a request for a formal appeal. The regulations require that a formal hearing request be filed in accordance with the appeal form provided by the department.²³

A review of the Department of Revenue’s Request for Formal Hearing form compared to Mr. K.’s May 10 letter, shows some significant omissions from Mr. K.’s letter that prevent the May 10 letter from meeting the “in accordance with the appeal form” provision of the regulation. Most significantly, the letter fails to provide for which year’s PFD the appeal refers, Mr. K.’s date of birth, his mailing address, his hearing preference, and it is not signed under the penalty of perjury. Additionally, the form was mailed to the Governor’s office rather than directly to the Permanent Fund Division, although PFD Office is also in the header. Therefore, the May 10, 2024, letter cannot substitute as a formal appeal request to find that Mr. K. filed a timely formal appeal.

Deadlines for initiating appeals serve an important purpose. They prevent unlimited revisiting of decisions long past. Historically, the appeal deadlines have been set aside in particularly compelling circumstances, but no such circumstances were presented in this case.²⁴

IV. Conclusion

²² Div. Ex. 4, p. 5. And Div. Ex. 7, p. 1.

²³ 15 AAC 05.030(a).

²⁴ Prior decisions regarding the enforcement or waiver of PFD appeal deadlines can be found at <http://doa.alaska.gov/oah/decisionss/pfd.html>.

Mr. K. did not provide any reasonable justification for why he missed the deadline to initiate the appeal process by 144 days. The motion to dismiss is granted and the appeal is dismissed.

Dated: December 3, 2024

By: Signed
Signature
Beth Goldstein
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.]

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 30th day of December, 2024.

By: Signed
Signature
Beth Goldstein
Name
Administrative Law Judge
Title

