

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

In the Matter of	)	
	)	
S. E. U.	)	OAH No. 23-0274-PFD
	)	
<u>2022 Permanent Fund Dividend</u>	)	

DECISION

I. Introduction

S. E. U. of Harbor A., Alaska applied for a 2022 Permanent Fund Dividend (PFD) by mailing an application to the Juneau PFD office that was received on June 14, 2022. That application was signed and dated by Mr. U. on June 8, 2022. As PFD applications for 2022 were due by March 31st, the Permanent Fund Dividend Division denied the application initially, and at the informal appeal level, based on untimeliness. Mr. U. 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. U.

II. Facts

S. E. U. is a 30 year-old resident of Harbor A.¹ There is no evidence that he is disabled in any way, and no claim of disability has been made on his behalf. He was not a member of the armed forces in 2021-22.²

There is no dispute that Mr. U. did not file an application during the 2022 application period for PFDs, as his application was signed on June 8, 2022, over two months after the filing deadline.³ It is unclear when Mr. U. mailed his application, as it does not have a postmark.⁴ Whenever the application was mailed, it was received by the Division on June 14, 2022.⁵

The Division denied Mr. U.'s application because it was not delivered or postmarked by the March 31, 2022 deadline.⁶ Mr. U.'s informal appeal, in which he submitted a letter from

¹ Ex. 2, p. 1.

² Ex. 1, p. 1. *Cf.* AS 43.23.011(c).

³ *Id.*, p. 4.

⁴ *Id.*, p. 5

⁵ Ex. 2, p. 1.

⁶ *Id.*

Company A. verifying his employment with the company and his physical address, was unsuccessful.⁷ On April 4, 2023, Mr. U. requested a formal hearing by correspondence, received by the Division on April 11, 2023.⁸ Attached to that request was a second letter from Company A. verifying his employment with the company and physical address, as well as a copy of his Philippine Passport and United States' Permanent Resident Card.⁹

By notice dated April 21, 2023, Mr. U. was given until May 22, 2023 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 June 5, 2023 to respond to any documents received from the other. The Division filed a position statement with exhibits. Mr. U. 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 passing the statute, the legislature provided only two exceptions. To be eligible for either exception, the applicant must be a member of the armed services.¹⁰ Mr. U.'s application shows that he was not in the armed forces, and so the March 31st 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,¹¹ but again, Mr. U. is not in these categories and thus must show he applied by March 31, 2022. As Mr. U. signed his application June 8 and it was received June 14, 2022, he did not meet this deadline.¹²

From Mr. U.'s correspondence with the Division it appears that he, incorrectly, believed that his PFD application was denied based on a question of residency. Mr. U. submitted two letters from his employer verifying his residency and his sole statement on appeal was, "I feel I eligible for permanent fund dividend because I did not left Alaska more than 90 days."¹³ However, Mr. U. was not denied based on residency or any time out of state, but instead was denied because his application was signed and submitted after the deadline. The Department of

⁷ Ex. 4, pp. 1-2.

⁸ Ex. 5. p. 1

⁹ *Id* at pp 2-5

¹⁰ AS 43.23.011(b), (c).

¹¹ *See* AS 43.23.055(3), (7).

¹² Ex. 1, p. 4.

¹³ Ex 3, p. 2

Revenue is bound by the statutes laid down by the Legislature and by its own regulations, which set a hard deadline. Under the law, the Department of Revenue has no discretion in this matter, and it cannot grant Mr. U. a dividend.

IV. Conclusion

As Mr. U.'s application was signed and filed after the deadline and did not qualify for any exception to the deadline, the Department of Revenue cannot grant S. E. U. a dividend for 2022. This decision does not affect his ability to qualify in 2023 or future years.

DATED: July ---, 2023.

Signed

Eric Salinger

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 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 7th day of August, 2023.

By: Signed
Eric Salinger
Administrative Law Judge

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