

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

In the Matter of

H. K. D.

2022 Permanent Fund Dividend

)
)
)
)
)

OAH No. 23-0288-PFD

DECISION

I. Introduction

H. D. of City A., Alaska applied for a 2022 Permanent Fund Dividend (PFD) by hand-delivering an application to a PFD office on August 19, 2022. Because PFD applications for 2022 were due by March 31, the Permanent Fund Dividend Division denied the application initially and at the informal appeal level on the basis of untimeliness. The Division also denied the informal appeal based on a belief that the applicant had not established an allowable absence during the qualifying year for the 2022 dividend. Mr. D. requested a formal hearing, and received a telephonic hearing on May 30, 2023.

The division's denial is affirmed for the single reason that 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. D.

II. Facts

Mr. D. is a longtime Alaska who has received dividends since birth.¹ No claim of disability has been made on his behalf. He has not been a member of the armed forces in 2021-23.²

There is no dispute that Mr. D. did not file an application during the 2022 application period for PFDs. The late filing came about as follows. In the qualifying year for the previous dividend, Mr. D. had been a college student and had been studying in Arizona. A question arose as to his eligibility, which was resolved through correspondence with the PFD Division in late 2021. Mr. D. was told, correctly, that the paperwork he had gathered to establish his out-of-state enrollment would help with his 2022 dividend as well.³

In the 2021-22 school year, Mr. D. was studying in Germany. A family member was terminally ill in January-February of 2022, and he returned home for a few weeks to provide

¹ Ex. 3, p. 3.

² Ex. 1, p. 1; D. testimony. *Cf.* AS 43.23.011(c).

care. He then returned to school and took exams in March of 2022, forgetting to file a PFD application. The distraction of the care for and loss of the family member contributed to his forgetfulness. He did not realize he had omitted to file an application until August, when he immediately did so by delivering a late paper application.⁴

The PFD Division conceded at hearing that Mr. D. was allowably absent receiving full-time post-secondary education in 2021.

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 of them, the applicant has to be a member of the armed services.⁵ Mr. D.'s application shows that he was not in the armed forces, and so the March 31 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,⁶ but again, Mr. D. is not in these categories and thus must show he applied by March 31, 2022. He admits that he did not.

Mr. D. is clearly eligible for dividends, and it is regrettable that he did not apply on time in 2022. 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. D. a dividend.

Through a Division concession, the hearing established that Mr. D. was allowably absent while a student in Germany and that he retained his Alaska residency. Thus, the missed dividend in 2022 should be a one-time experience.

³ D. testimony.

⁴ *Id.*; Ex. 1.

⁵ AS 43.23.011(b), (c).

⁶ *See* AS 43.23.055(3), (7).

IV. Conclusion

Because his application was filed after the deadline and did not qualify for any exception to the deadline, the Department of Revenue cannot grant H. D. a dividend for 2022. This decision does not affect his ability to qualify in 2023 or future years.

DATED this 31st day of May, 2023.

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 27th day of June, 2023.

By: Signed
Christopher Kennedy
Administrative Law Judge

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]