

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

IN THE MATTER OF:)

T. A.)

) OAH No. 08-0038-CSS
) CSSD Case No. 001147171

DECISION AND ORDER

I. Introduction

This case concerns the obligation of T. A. for the support of S. A. (DOB 00/00/04). The custodian of record is J. A.

On January 15, 2008, the Child Support Services Division issued an amended administrative child support order establishing a support obligation in the amount of \$726 per month effective February 1, 2008, with arrears in the amount of \$1,593 for the period from September 1, 2006, through January 31, 2008.¹

Mr. A. filed an appeal and requested an administrative hearing. The assigned administrative law judge conducted a telephonic hearing on February 19, 2008. Mr. A. and Ms. A. participated, and Andrew Rawls represented the division.

Based on the testimony at the hearing and the evidence in the record, arrears are owed at the rate of \$59 per month (less any credits due) for September through November, 2006. The ongoing child support obligation is \$630 per month and is suspended for as long as Mr. A. has custody of S.

II. Facts

T. and J. A. separated in in 2006. From September through November, 2006, they shared custody of their daughter S., about 67% with Mr. A. and about 33% with Ms. A. Since December, 2006, Mr. A. has had primary custody of S. Mr. A.'s current income, including overtime, is about \$54,686 per year.

III. Discussion

The division establishes a child support obligation based upon "the expected actual annual income that the parent will earn or receive when the child support award is

¹ Exhibit 12.

to be paid.”² When adequate information is available, arrearages may be based on the actual income received during the period for which arrearages are due.³

The division initially calculated Mr. A.’s support obligation without providing a credit for the support of his prior children, and using the primary custody calculation. Mr. A. testified as to the status of his prior children and his current income, and Ms. A. confirmed that during September-November, 2006, Mr. A. had custody about 67% of the time.

Based on the testimony at the hearing, the division recalculated the support obligation for arrearages as \$59 per month, and recalculated the ongoing support by providing the appropriate credits and using income information in the records of the Alaska Department of Labor and Workforce Development. The division’s calculation is supported by the record and the testimony at the hearing.

IV. Conclusion

The child support order should be set at the amounts indicated in the division’s post hearing brief.

CHILD SUPPORT ORDER

The Amended Administrative Child Support and Medical Support Order dated January 15, 2008, is **AMENDED** as follows; in all other respects, the Modified Administrative Child Support and Medical Support Order dated January 15, 2008, is **AFFIRMED**:

1. Mr. A.’s arrearages are set at \$59 per month, for the months from September 1, 2006, through November 30, 2006.
2. Amended ongoing child support is set at \$630 per month and is suspended for as long as Mr. A. has custody of S.

DATED: March 21, 2008.

Signed

Andrew M. Hemenway
Administrative Law Judge

² 15 AAC 125.030(a).

³ Duffus v. Duffus, 72 P.3rd 313, 321 (Alaska 2003); Spott v. Spott, 17 P.3rd 52, 56 (Alaska 2001).

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 11th day of April, 2008.

By: Signed
Signature
Andrew M. Hemenway
Name
Administrative Law Judge
Title

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