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

In the Matter of	)	
	)	
N. T. B.	)	OAH No. 23-0404-PFD
	)	
2022 Permanent Fund Dividend	)	

DECISION

I. Introduction

In April 2022, N. T. B. of City A., Alaska realized he had forgotten to apply for his 2022 Permanent Fund Dividend ("PFD") by the statutory deadline of March 31. Hoping to be forgiven for this oversight, Mr. B. eventually mailed an application to the Department of Revenue's Permanent Fund Division (the "Division") with a postmark of June 27, 2022.

After the Division denied his application as untimely, Mr. B. submitted an appeal that was eventually referred to the Office of Administrative Hearings for a hearing and recommended decision. A telephonic hearing was held on August 4, 2023 at which Mr. B. and Division representative Delilah Bernaldo testified. Six exhibits provided by the Division were admitted into evidence.

Since it is undisputed that Mr. B. submitted a late application, and there is no evidence showing he qualifies for one of the limited exceptions the law provides to the March 31 filing deadline, the Division's denial of Mr. B.'s 2022 PFD application is affirmed.

II. Facts

Mr. B. is a 71-year-old lifelong Alaska resident now living in City A.[1] There is no evidence that he is disabled, and no claim of disability has been made on his behalf.[2] No evidence was offered suggesting he was a member of the armed forces in 2021-22.

On April 5, 2022, Mr. B. made the unhappy realization that he had forgotten to file for his 2022 PFD by the March 31 application deadline. Mr. B. called a Division office to ask if there was some way he could receive a dividend despite missing the application

[1] Exhibit 1, p. 3.
[2] Exhibit 6, p. 2.

deadline.[3] An application form was subsequently mailed to him. Before sending this form, however, a Division employee applied a stamp to each page advising that, "THIS FORM WAS DISTRIBUTED AFTER THE APPLICATION DEADLINE."[4] Mr. B. filled out this application form, which was mailed to the Division with a postmark of June 27, 2022.[5]

On July 22, 2022, the Division issued a notice advising Mr. B. that his application was being denied since it was not received or postmarked by the March 31 deadline.[6] Mr. B. timely submitted an informal appeal of this decision, which the Division denied on January 27, 2023.[7] A timely request for a formal hearing was then filed by Mr. B.. In this request, Mr. B. acknowledged that he had simply forgotten to file his PFD application prior to the March 31 deadline, and that he had no information to provide showing how he might qualify for any of the limited exceptions to that deadline.[8]

III. Discussion

The Alaska Statute setting the application period for dividends is AS 43.23.011. Under that statute, the period to apply for a dividend begins on January 1 and ends on March 31 of the dividend year. The only exceptions allowed to this filing deadline are for certain children when their parents or guardians do not timely apply on their behalf,[9] for certain military members who were eligible for imminent danger or hostile fire pay during the application period,[10] and for persons suffering from disabilities which prevented them from timely filing.[11] Since Mr. B. offered no evidence that he qualifies for any of these exceptions, for him the March 31 deadline was absolute.

The Permanent Fund Division is bound by the statutes enacted by the Legislature and by its own regulations, which establish a clear and unambiguous deadline. The Division is not allowed to make exceptions because it sympathizes with people or because they are

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3 Exhibit 2, p. 1.

4 Exhibit 1. In her hearing testimony, Ms. Bernaldo explained that applications are routinely sent to individuals after the March 31 deadline since there are some limited exceptions to the deadline, and the Division does not want to deny applicants an opportunity to qualify for one of those exceptions prior to reviewing a written application.

5 Exhibit 1, p. 5.

6 Exhibit 3, p. 1.

7 Exhibit 4, p. 1; Exhibit 5, p. 2.

8 Exhibit 6, p. 2.

9 15 AAC 23.133(b) and (c).

10 AS 43.23.011(b) and (c).

11 15 AAC 23.133(d).

longtime Alaskans. Since the Division has no discretion in this matter, it cannot grant Mr. B. a 2022 dividend.

IV. Conclusion

Since Mr. B.'s application for the 2022 dividend was untimely, and none of the exceptions which might allow the Division to consider an untimely application apply here, the Division's denial of Mr. B.'s application is affirmed.

Dated: August 22, 2023

Signed

Max Garner
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 15th day of September, 2023.

By: *Signed*
Max Garner
Administrative Law Judge

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