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

In the Matter of	)	
	)	
K.T & C.U	)	OAH No. 22-0506-PFD
	)	

DECISION

I. Introduction

The Permanent Fund Dividend Division ("Division") denied 2021 Permanent Fund Dividend ("PFD") applications for K.T and C.U because they were untimely. The PFD deadline is a strict one with few, very limited exceptions. Ms. T and Mr. U offered no evidence that they timely submitted their applications or that they could qualify for an exception. Accordingly, the Division's denial of their applications is affirmed.

II. Background

A PFD application must be received or postmarked by March 31 of the dividend year.[1] The only exceptions to this deadline are for active military servicemembers under specific circumstances.[2] Minors reaching the age of majority and disabled people may also apply for prior year dividends under limited circumstances.[3]

K.T and C.U submitted paper applications for a 2021 PFD with signatures dated March 19, 2021 and March 20, 2021, respectively.[4] Mr. U and Ms. T both marked on their applications that they were not activity military servicemembers.[5] The Division received both applications in an envelope postmarked April 6, 2021.[6]

The Division denied Mr. U and Ms. T applications as untimely.[7] Mr. U submitted an informal appeal, both claiming "I mailed the application before the deadline" and "[t]he post

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1 AS 43.23.011(a); 15 AAC 23.103(a).
2 AS 43.23.011(b), (c).
3 15 AAC 23.133.
4 Ex. 1 at 4, 8.
5 Ex. 1 at 1, 5.
6 Ex. 1 at 9; Ex. 2 (noting that the original was retrieved from storage to verify the postmark).
7 Ex. 3.

office here had been closed for a period of time."[8] The Division denied their informal appeals, pointing out that neither had provided any evidence of timely filing.[9]

In their formal appeal, Ms. T and Mr. U claimed that "[t]he application was put in Post Office slot before deadline. The unreliable postmistress failed to stamp envelope before day end."[10] They requested an appeal on written correspondence. The parties were given an opportunity to submit additional documents or briefing by July 5, 2022 with responses due July 19, 2022. The Division provided a position statement and exhibits on July 1. Ms. T and Mr. U did not submit anything.

III. Discussion

As the appellants, Ms. T and Mr. U have the burden of proving they are eligible for a 2021 PFD. Thus it was up to Ms. T and Mr. U to show that their applications were timely or that they qualified for one of the very limited exceptions.

To be timely, an application must be received or postmarked by March 31, 2021.[11] Ms. T's and Mr. U's applications were postmarked nearly a week after the deadline, on April 6, 2021. As set forth in regulation, "[i]t is an individual's responsibility to ensure that an application is timely delivered to the department . . . . or delivered to the post office in sufficient time to be postmarked before the end of the application period."[12] When an application is postmarked after the deadline, the Division will deny the application unless the applicant provides "an official statement from the United States Postal Services or a foreign postal service that describes the specific circumstances under which the postal service incorrectly posted the individual's application or cause a delay in posting."[13] Ms. T and Mr. U did not provide any statement from the Postal Service. Nor did they offer any corroborating evidence that the post office was closed at the time. Their own statement that the "postmistress failed to stamp envelope before day end" fails to account for the fact that the envelope was postmarked nearly a week after the filing deadline, not the day after.

Ms. T and Mr. U also failed to show that they qualify for an exception to the application deadline. The only limited exceptions are for active duty military servicemembers, minors,

8 Ex. 4 at 2, 4.
9 Ex. 5.
10 Ex. 6 at 2.
11 AS 43.23.011(a); 15 AAC 23.103(a).
12 15 AAC 23.103(g).
13 *Id.*

minors reaching the age of majority, or disabled persons.[14] Ms. T and Mr. U did not offer evidence that either of them fall into any of those categories, let alone the circumstances required for these exceptions.

The PFD is not an automatic benefit. Residents must apply each year. And they must apply by the deadline. Ms. T and Mr. U failed to do so and do not qualify for an exception for late filing.

IV. Conclusion

Ms. T and Mr. U mailed their PFD applications after the March 31, 2021 deadline and did not qualify for any exception to the deadline. Because their applications were untimely, the Division correctly denied their 2021 PFDs. The Division's decision is affirmed. This decision does not affect Ms. T's and Mr. U's ability to qualify in 2022 or subsequent years.

Dated: July 20, 2022

Signed

Rebecca Kruse
Administrative Law Judge

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14 AS 43.23.011(b), (c); 15 AAC 23.133.

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 16th day of August, 2022.

By: *Signed*
Rebecca Kruse
Administrative Law Judge

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