

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

|                                     |   |                     |
|-------------------------------------|---|---------------------|
| In the Matter of                    | ) |                     |
|                                     | ) |                     |
| N.T                                 | ) |                     |
|                                     | ) |                     |
|                                     | ) | OAH No. 22-0385-PFD |
| <u>2020 Permanent Fund Dividend</u> | ) |                     |

**DECISION**

**I. Introduction**

The Permanent Fund Dividend Division (Division) denied N.T’s application for a 2020 Alaska Permanent Fund Dividend (PFD) at the initial and informal appeal levels on the basis that the application was untimely. Although Mr. T requested a formal hearing by correspondence, the administrative law judge set the matter for a telephonic hearing on July 27, 2022, to clarify questions regarding the circumstances of the filing of the application.<sup>1</sup>

After considering all of the evidence, the undersigned affirms the Division’s denial of the application because the application was filed late, and Mr. T did not qualify for any exceptions.

**II. Facts**

Mr. T is 62 years old. He has lived in Town A, Alaska since 2018 and has not left Alaska since then.<sup>2</sup> He was not a member of the armed forces in 2019-20.<sup>3</sup> There is no indication that he is disabled, and no claim of disability has been made on his behalf.

Mr. T submitted a paper application for a 2020 PFD, which he signed on March 27, 2021 – the year after the dividend was paid.<sup>4</sup> The Division received the application on March 30, 2021.<sup>5</sup> The Division did not retain the envelope containing the application so did not know the date it was postmarked.

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<sup>1</sup> The order setting the case for a telephonic hearing indicated that the hearing would cover Mr. T’s application for a 2021 PFD as well as a 2020 PFD. This is because the Division had originally denied the 2021 PFD, and Mr. T had requested a formal hearing by correspondence of that denial. However, the Division’s exhibits show that the Division overturned its original denial of the 2021 application, obviating the need for a hearing on the 2021 PFD. Ex. 14.

<sup>2</sup> Ex. 1, p. 1

<sup>3</sup> Ex. 1, p. 1.

<sup>4</sup> Exs. 1 and 3.

<sup>5</sup> Ex. 1, p.1.

The deadline for filing an application for a 2020 dividend was extended due to the COVID-19 pandemic, but only until April 30, 2020. Because there was no evidence that Mr. T's application was received or postmarked on or before the April 30, 2020 deadline, the Division denied the application.<sup>6</sup> Mr. T filed an informal appeal in which he said he had not left Alaska for three years and paid monthly child support with his social security income, but he provided no documentation that the application had been filed timely. Moreover, according to notes of a December 12, 2021 phone call between Mr. T and Delilah Bernaldo, Mr. T appeared to have acknowledged his application was late, stating that he had put it "in the glove box to mail it later and forgot" about it.<sup>7</sup> The Division subsequently upheld the denial of Mr. T's application for untimeliness.<sup>8</sup>

On April 16, 2022, Mr. T requested a formal appeal, stating that he "mailed my paperwork on March 23, 2021" and reiterating that he had not left Alaska for three years."<sup>9</sup> At the formal hearing on July 27, 2022, however, he admitted that he had placed his 2020 application in the glove box and forgotten about it until eventually mailing it in March 2021.

### **III. Discussion**

AS 43.23.011 establishes the application period for filing for a dividend. Under the statute, the filing period ends on March 31 of the dividend year.<sup>10</sup> Because of the pandemic, the Alaska legislature extended the deadline to April 30, 2020 for the 2020 dividend year, but the deadline provisions were not modified in any other way.<sup>11</sup> The application must be received by the department or postmarked during the application period to be timely filed.<sup>12</sup>

The legislature provided two exceptions to the filing deadline, both of which require an applicant to be a member of the armed forces.<sup>13</sup> Mr. T's application shows that he was not in the armed forces. Additionally, there are other provisions in the PFD statutes that effectively allow certain minors and disabled persons to apply after the deadline, but Mr. T is not in these categories.<sup>14</sup>

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<sup>6</sup> Ex. 2.

<sup>7</sup> Ex. 4. According to the notes, Mr. T said his ex would receive his money from the dividend, and he "didn't care" if she did not get it.

<sup>8</sup> Ex. 5.

<sup>9</sup> Ex. 6, p.2.

<sup>10</sup> AS 43.23.011(a).

<sup>11</sup> § 10, ch 10 SLA 2020 (deadline adjusted in uncodified law).

<sup>12</sup> 15 AAC 21.103(a)

<sup>13</sup> 43.23.011(b) & (c).

<sup>14</sup> AS 43.23.055(3) & (7).

Thus, the April 30, 2020 deadline applied to Mr. T, and he was required to apply for the 2020 dividend on or before that date. The evidence clearly shows that he did not. As Mr. T admitted, he did not mail the application until March 2021 because he had put it in the glove box and forgotten about it.

Because his application was untimely, Mr. T is disqualified from receiving a 2020 dividend.

#### **IV. Conclusion**

The Division's denial of Mr. T's 2020 PFD application is affirmed.

Dated: August 10, 2022

*Signed*

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Lisa M. Toussaint  
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 7<sup>th</sup> day of September, 2022.

By: Signed  
Lisa M. Toussaint  
Administrative Law Judge

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