

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

IN THE MATTER OF)
)
 P. T.) Case No. OAH-08-0157-CSS
) CSSD Case No. 001148807

DECISION & ORDER

I. Introduction

The obligor, P. T., appeals an Amended Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD) on February 28, 2008. Administrative Law Judge Dale Whitney of the Office of Administrative Hearings heard the appeal on April 23, 2008. Mr. T. appeared by telephone. The custodian of record, A. S., did not appear. Andrew Rawls represented CSSD. The child is B. T. (DOB 00/00/06). The calculations in the amended order are correct, but Mr. T. should not be required to pay support for times when the family was intact.

II. Facts

Mr. T. and Ms. S. were living together when B. was born in 2006. The family remained together until early in June, 2007, when the parties separated. At the time they separated, the parties shared custody of B. evenly, alternating physical custody every two days. In September of 2007 the Superior Court in Sitka adopted this custody arrangement in an interim custody order.

CSSD calculated Mr. T.'s support obligation based on evenly shared custody. For 2007, CSSD calculated that Mr. T.'s sole monthly support obligation would have been \$300 per month, while Ms. S.'s would have been \$82.¹ In accordance with the Civil Rule 90.3(b) formula for apportioning child support when the parents share custody, CSSD calculated that Mr. T.'s higher income would result in an obligation to Ms. S. of \$164 per month.²

For 2008 and ongoing, CSSD estimated that both parents would have equal earnings, based on full-time minimum wage jobs, and that both parents would have B. equal amounts of time. Therefore, CSSD has concluded that neither parent owes any support to the other. In the amended order, CSSD set Mr. T.'s support obligation for 2008 and ongoing at \$0.00 per month.

¹ Exhibit 6, pages 7-8. Based on income reported to the Department of Labor and PFD income.

² Exhibit 6, page 9.

III. Discussion

In his appeal, Mr. T. asserted that he had been in the home with B. for February and March of 2007, in addition to other months for which CSSD had not attempted to collect support. Upon consideration of the evidence in the record, CSSD agrees that Mr. T. is not obligated to pay support for the months of January through May, 2007.

Mr. T. also provided credible evidence that he was in a serious car accident on October 27, 2007, and that since that time he has been unable to work in his previous employment. While he has been able to return to light duty employment, there is no evidence to suggest that Mr. T.'s income is likely to exceed Ms. S.'s in the immediately foreseeable future. Thus, the amended order was correct in setting Mr. T.'s support obligation for 2008 and ongoing at zero. The amended order correctly set support at \$164 per month in 2007, but CSSD should not collect for the months of January through May when Mr. T. was in the home with B.

It appears that the parties' custody arrangement is still somewhat fluid pending action of the court. This case only concerns Mr. T.'s obligation to Ms. S. If Mr. T. wishes to attempt collection of support from Ms. S., he would need to establish a separate case by requesting services from CSSD.

IV. Conclusion and Order

The Amended Administrative Child Support and Medical Support Order issued by the Child Support Services Division on February 28, 2008 is AFFIRMED. CSSD will not collect support for the months of January through May of 2007. Mr. T.'s 2008 and ongoing support obligation will remain at \$0.00 per month.

DATED this 4th day of June, 2008.

By: Signed _____
DALE WHITNEY
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.

Under AS 25.27.062 and AS 25.27.250, the obligor's income and property are subject to withholding. Without further notices, 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 R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 26th day of June, 2008.

By: Signed
Signature
Dale Whitney
Name
Administrative Law Judge
Title

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