

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

IN THE MATTER OF)	
)	
B T)	OAH No. 08-0274-CSS
_____)	CSSD No. 001040605

DECISION & ORDER

I. Introduction

The custodian, G C, appeals a Decision on Nondisclosure of Identifying Information issued by the Child Support Services Division (CSSD) on May 22, 2008. Administrative Law Judge Dale Whitney of the Office of Administrative Hearings heard the appeal on June 24, 2008. Guy Kerner, counsel for the obligor B T, appeared by telephone. David Peltier represented CSSD. Ms. C did not appear or show cause for her failure to appear; this decision is therefore based on the record in accordance with 15 AAC 05.030(j).¹ CSSD's decision is affirmed.

II. Facts

There are no material facts in dispute. CSSD notified Ms. C that it had received a request from an attorney to disclose her identifying information to facilitate a settlement of child support arrears. When Ms. C did not respond, CSSD issued a notice that it would disclose Ms. C's identifying information, along with a blank appeal form. Ms. C returned the appeal form, on which she had written the following statement: "It's O.K. to release my mailing address to B for a settlement."

Although Ms. C was specifically consenting to the release of her address and indicating that she did not want a hearing, CSSD treated her statement as an appeal, apparently because it was written on an appeal form. Rather than denying the "request for hearing" under AS 44.64.060(b), CSSD generated an appeal file and forwarded the matter to the Office of Administrative Hearings for a hearing. The OAH issued a Notice of Assignment and sent copies to the parties. On June 9, 2008, the OAH scheduled a hearing and sent copies of a written Notice of Hearing by certified mail to each of the parties. CSSD prepared a written brief, in which it detailed the history of the case and then concluded that "there do not appear to be any issues between the parties concerning the release of identifying information to the case parties."

¹ Ms. C had contacted the OAH and provided two phone numbers. The administrative law judge called both numbers at the time of the hearing, and left a voice mail message at one of the numbers. Ms. C called the OAH later in the day to say that she had forgotten the hearing, but she did not request that it be rescheduled.

A hearing was held on June 24, 2008. CSSD's representative appeared at the hearing by telephone. Mr. T appeared by telephone through his attorney. Although she had provided contact numbers, Ms. C apparently forgot about the hearing and was not available. Ms. C called the OAH about an hour later to apologize for missing the hearing, but she did not request that the hearing be rescheduled. Because she was the one who had requested the hearing, at least in theory, the record was left open for ten days in accordance with 15 AAC 05.030(j) to allow Ms. C an opportunity to show cause for her failure to appear.

III. Discussion

At a formal hearing, the person requesting the hearing has the burden of proving that the division's decision was in error.² Ms. C has not provided any evidence of error. To the contrary, Ms. C specifically stated that she agreed with CSSD's decision, and that she does not mind being contacted to discuss settlement of the arrears in this case. CSSD has accurately characterized this case as a situation in which there are no issues in dispute, no questions to be answered, nothing to be resolved, and nothing that can be accomplished by the administrative law judge and the office of administrative hearings.

IV. Conclusion

Because there is no evidence or allegation of error, CSSD's decision should be affirmed. Ms. C's address should be released so that Mr. T's attorney may finally contact her to discuss the possible settlement of arrears.

V. Order

IT IS HEREBY ORDERED that the Decision on Nondisclosure of Identifying Information issued by the Child Support Services Division on May 22, 2008 is AFFIRMED.

DATED this 5th day of August, 2008.

By: Signed
DALE WHITNEY
Administrative Law Judge

² 15 AAC 05-030(h).
OAH No. 08-0274-CSS

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 27th day of August, 2008.

By: Signed
Signature
Dale Whitney
Name
Administrative Law Judge
Title

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