

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

IN THE MATTER OF:)

C. A. L.)

) OAH No. 09-0242-CSS

) CSSD No. 001137324

**DECISION AND ORDER
DISMISSING APPEAL**

I. Introduction

On April 16, 2009, C. A. L. requested a formal hearing in his child support case. In response, CSSD filed a Motion to Dismiss the appeal asserting the division has not issued any order or taken any action in his case that would entitle Mr. L. to a hearing. Oral argument on the motion was held on May 19, 2009. Mr. L. appeared in person; the other parent, C. D. S., did not participate. Erinn Brian, Child Support Specialist, represented CSSD. The proceeding was recorded.

Based on the record as a whole and after careful consideration, CSSD's Motion for Dismissal is granted and Mr. L.'s appeal is dismissed.

II. Facts and Procedural History

Mr. L. was granted custody of the parties' two children, R., DOB 00/00/04; and I., DOB 00/00/05, by court order on October 2, 2008.¹ He filed the appeal because CSSD is still collecting arrears for a period of time prior to the court order when he was liable for paying child support to Ms. S., who collected Native public assistance benefits through the Cook Inlet Tribal Council ("CITC"). Ms. S. later executed a statement withdrawing from CSSD's services, but the division is still collecting arrears of \$2,273.74 that are owed to CITC.² Mr. L. requested a formal hearing in an effort to resolve the issue, asserting he and Ms. S. lived together during part, if not all, of the time periods for which CSSD is collecting support.

At the hearing, Mr. L. testified he has given both the CITC and CSSD proof that he and Ms. S. lived together, but he has been unable to get his support obligation for that time frame discharged. CSSD responded that since this is a case in which all of the arrears are owed to

¹ Exh. 2.

CITC, the division is required to collect support for the time periods CITC indicates support is owed. CSSD did offer, however, to work with Mr. L. and if possible, help him get this matter resolved with CITC. Mr. L. was amenable to this plan.

III. Discussion

CSSD did not provide a copy of Mr. L.'s child support order, but there is no dispute that his child support obligation for R., DOB 00/00/04; and I., DOB 00/00/05 was established prior to the court order and that he currently has arrears remaining. CSSD has undertaken only collection efforts in his case. For this reason, CSSD asserts his appeal should be dismissed because CSSD has not issued an order or taken any official agency action that entitles him to a formal hearing before an administrative law judge.

CSSD is correct. Mr. L. is not entitled to a hearing before an administrative law judge simply because he requested a formal hearing. In general, administrative hearings are available only for establishment or modification of monthly child support amounts.³ Hopefully CSSD will be able to work with Mr. L. and CITC to clear up the issue of him having to pay arrears for time periods he was living with Ms. S. and the children.

III. Conclusion

Mr. L. is not entitled to an administrative appeal and formal hearing because CSSD has not issued an order or taken any appealable action in his case. Therefore, CSSD's motion should be granted, and his appeal should be dismissed.

THEREFORE IT IS ORDERED:

- CSSD's May 4, 2009, motion for dismissal is GRANTED;
- Mr. L.'s April 16, 2009, appeal and request for a formal hearing is dismissed.

DATED this 22nd day of June, 2009.

By: Signed
Kay L. Howard
Administrative Law Judge

² According to CSSD, Mr. L. payments are \$135 per month.

³ See AS 25.27.170; AS 25.27.190.

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 notice, 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 Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 10th day of July, 2009.

By: Signed _____
Signature
Christopher Kennedy _____
Name
Administrative Law Judge _____
Title

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