

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Income Tax

MICHAEL L. WILLS,)
)
 Plaintiff,) TC-MD 021268A
)
 v.)
)
 DEPARTMENT OF REVENUE,)
 STATE OF OREGON,)
)
 Defendant.) **DECISION AND JUDGMENT**

Michael L. Wills appealed the Department of Revenue's decision to deny him a payment under the Elderly Rental Assistance Program. Mr. Wills appeared and presented his arguments. The Department of Revenue was represented by Mike Halter.

The Department of Revenue denied the payment, reasoning that Mr. Wills' household income, by virtue of his marriage in December of 2001, exceeded the \$10,000 limit set out in ORS 310.635(1)(b).¹ Mr. Wills subsequently demonstrated, to the court and the agency, that he did not cohabit with his spouse until January of 2002.

The finding that Mr. Wills' spouse was not a member of his household during the year in question means his household income did not exceed the \$10,000 limit. ORS 310.630(5), ORS 310.630(7), and ORS 310.635(1)(b). Mr. Wills is entitled to the Elderly Rental Assistance payment. Now, therefore,

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¹All references to the Oregon Revised Statutes ("ORS") are to 2001.

IT IS ADJUDGED AND DECREED that Mr. Wills' appeal is granted. The Department of Revenue shall make the payment as it receives appropriated funds under ORS 310.692.

Dated this _____ day of March, 2003.

SCOT A. SIDERAS
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE SCOT A. SIDERAS ON MARCH 24, 2003. THE COURT FILED THIS DOCUMENT ON MARCH 24, 2003.