

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWG Docket No. 09-0152
)
Christie L. Murphy,)
)
Petitioner)

Decision and Order

This matter is before me upon the request of the Petitioner, Christie L. Murphy, for a hearing in response to efforts of Respondent to institute a federal administrative wage garnishment against Petitioner. On July 23 2009, I issued a Pre-hearing Order requiring the parties to exchange information concerning the nature of the debt and the ability of Petitioner to repay all or part of the debt, if established.

I conducted a telephone hearing with the parties on October 1, 2009. Ms. Murphy was self-represented. USDA Rural Development Agency (RD) was represented by Gene Elkin, Esq. and Mary Kimball testified on behalf of the RD agency. The witnesses were sworn in.

Petitioner had previously submitted PX-1 thru PX-12 (Narrative and financial forms). The financial forms were signed under oath. RD acknowledged that they were in possession of Petitioner's exhibits.

RD had filed a copy of a Narrative along with exhibits on August 28, 2009 with the OALJ Hearing Clerk and certified that it mailed a copy of the same to Petitioner.

Petitioner owes \$31,309.91 on the USDA RD loan as of August 26, 2009, and in addition, fees due the US Treasury of \$8,766.78 pursuant to the terms of the Promissory Note.

Findings of Fact

1. On February 12, 1999, Petitioner Christie L. Murphy obtained a USDA Rural Development home mortgage loan for a property located at 713 Windy Hill Celeste, Texas 76423. Petitioner signed a promissory note for \$66,815.00. RX-1 .

2. On April 7, 2006 Petitioner was sent a Notice of Acceleration and Demand for Payment (Default) on the Promissory Note. RX 3. At the time of the Default Notice, the balance due on the note was \$59,475.28 and unpaid interest was \$9,496.72.

3. USDA acquired the property at a foreclosure sale on May 1, 2007. At the time of sale, Petitioner owed additional accrued interest and fees for a total debt of \$86,413.03. RX-4.

4. USDA purchased the property for \$52,640.58. After applying these funds, borrowers owed \$33,772.45. Post-sale Fees were \$56.00. RX-4.

5. USDA has received additional payments (total \$2,518.54) from Treasury after their fees were deducted. USDA applied this amount to borrowers' account. The balance due USDA as of August 26, 2009 is \$31,309.91. (M. Kimball testimony).

6. Additionally, under the terms of the Promissory Note, the U.S. Treasury fees due as a result of the foreclosure are \$8,766.78.

7. Petitioner's stated reason for her petition for hearing was that the proposed garnishment would create a hardship and she presented sworn financial statements PX-3 thru PX-12 to that end.

8. RD conducted a limited cross-examination of Ms. Murphy, but generally did not disagree that Petitioner's resulting Net Monthly Income statement of approximately \$56.00 (plus occasional and non-guaranteed performance bonuses) was very low. PX-4.

9. Petitioner has been continuously employed by her current employer for more than 12

continuous months. 31 C.F.R. § 285.11(j).

10. Christie L. Murphy is liable for the debt under the terms of the Promissory Note.

Conclusions of Law

1. Petitioner Christie L. Murphy is indebted to USDA's Rural Development program in the amount of \$31,309.91.

2. In addition, Petitioner is indebted for fees to the US Treasury which are currently \$8,766.78.

3. Based upon Petitioner's sworn financial and oral testimony, administrative wage garnishment of her wages would cause her financial hardship.

4. Due to a finding of financial hardship, administrative wage garnishment is not authorized at this time.

5. RD may review Petitioner's hardship grounds at least annually and may reinstate administrative wage garnishment if it receives information that the Petitioner's financial condition has materially improved.

6. All procedural requirements for administrative wage offset set forth in 31 C.F.R. § 285.11 have been met.

Order

For the foregoing reasons, administrative wage garnishment of Petitioner Christie L. Murphy's wages is not authorized at this time, without prejudice to re-institute garnishment proceedings should there be a material improvement in Petitioner's financial condition.

Copies of this Decision and Order shall be served upon the parties by the Hearing Clerk's office.

JAMES P. HURT
Hearing Official

October 2, 2009