

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWG Docket No. 10-0024
)
 Jessica Johnson,)
)
 Petitioner)

Final Decision and Order

This matter is before me upon the request of the Petitioner, Jessica R. Johnson, for a hearing in response to efforts of Respondent to institute a federal administrative wage garnishment against her. On November 12, 2009, I issued a Pre-Hearing Order requiring the parties to exchange information concerning the amount of the debt. I issued an Amended Pre-Hearing Order on January 28, 2010 revising the time and date of the Oral hearing. I conducted a telephone hearing at the scheduled time on February 2, 2010. USDA Rural Development Agency (RD) was represented by Gene Elkin, Esq., and Mary Kimball who testified on behalf of the RD agency.

Petitioner was self represented.

The witnesses were sworn in. RD had filed a copy of a Narrative along with exhibits RX-1 through RX-5 on December 15, 2009 with the OALJ Hearing Clerk and certified that it mailed a copy of the same to Petitioner.

Petitioner submitted documents or exhibits PX-1 through PX-8 (which included her Current Income & Expenses and Assets & Liabilities under oath. Ms. Kimball acknowledged that RD had received the Petitioner's submissions prior to the Hearing.

Petitioner owes \$14,586.13 on the USDA RD loan as of today, and in addition, potential

fees of \$4,084.11 due the US Treasury pursuant to the terms of the Promissory Note.

Findings of Fact

1. On October 7, 2004, Petitioner Jessica Johnson obtained a USDA Rural Development home mortgage loan for property located at #### Alpha Street, Bondurant, IA 500##.¹ Petitioner was signor to a promissory note for \$129,000. Narrative, RX-1 @ p. 1.

2. On November 6, 2006, Petitioner defaulted on the note and was sent a Notice of Acceleration and Demand for Payment (Default) on the Promissory Note. Narrative, RX-3. At the time of the Default Notice, the balance due on the note was \$151,279.44. Narrative, RX-4.

3. The property was sold in a “short sale” after notice to Petitioner to a new buyer for a price of \$128,973.53. Narrative, Ms. Kimball testimony, RX-4 @ p. 1 of 2.

4. The total amount of debt owed after the short sale was \$22,305.91. RX-4 @ p. 1 of 2.

5. After the final sale, there was an additional recovery (treasury offset) of \$7,392.10 and waived fees of \$259.25, but additional post-sale fees of \$109.67 which brought the Petitioner’s debt down to \$14,586.13. Ms. Kimball testimony, RX-4 @ p. 2 of 2, Narrative.

6. The potential fees due U.S. Treasury pursuant to the Loan Guarantee Agreement are \$4,084.11. Ms. Kimball testimony.

7. There was oral testimony from Petitioner that she has been continuously employed by her current employer for 3 years. Petitioner’s maximum gross monthly income is [REDACTED]0. PX-1. She testified that she sometimes is not fully employed at her current employer.

8. The Petitioner raised issues of financial hardship resulting from the garnishment process. Petitioner’s Current Income and Expenses schedules PX-1 and PX-2 were evaluated

¹Complete address maintained in USDA records.

using the Financial Hardship Calculation Program. The result is that RD is entitled to garnish [REDACTED] (10.6%) of Petitioner's wages at this time. The financial hardship Calculation Worksheet is attached² to this Order.

9. Jessica Johnson liable for the debt under the terms of the Promissory Note.

Conclusions of Law

1. Petitioner Jessica Johnson is indebted to USDA's Rural Development program in the amount of \$14,586.13.

2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$4,084.11.

3. All procedural requirements for administrative wage garnishment set forth in 31 C.F.R. ¶ 285.11 have been met.

4. Petitioner is under a duty to inform USDA's Rural Development of her current address, employment circumstances, and living expenses.

5. Following compliance with 31 C.F.R.¶ 285.11(i) and (j), the USDA Rural Development Agency (RD) is entitled to administratively garnish the wages of the Petitioner.

² The Financial Hardship Calculation is not posted online.

Order

For the foregoing reasons, provided the requirements of 31 C.F.R. ¶ 288.11(i) & (j) have been met, the wages of the Petitioner, Jessica Johnson, shall be subject to administrative wage garnishment in the amount of 10.6% of her Monthly disposable Income. The Final Decision and Order will be effective after the parties have been given a 10 day comment period on the “Hardship Calculations.”

Any new or additional financial information must be under the continuing oath of the hearing.

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

JAMES P. HURT
Hearing Official

February 25, 2010