

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWG Docket No. 10-0076
)
Joyce A. Bragg)
a/k/a/ Joyce A. Stevens)
)
Petitioner)

Final Decision and Order

This matter is before me upon the request of the Petitioner, Joyce A. Bragg for a hearing in response to efforts of Respondent to institute a federal administrative wage garnishment against her. On January 14, 2010, I issued a Pre-hearing Order requiring the parties to exchange information concerning the amount of the debt.

I conducted a telephone hearing at the scheduled time on March 23, 2010. USDA Rural Development Agency (RD) was represented by Gene Elkin, Esq., and Mary Kimball who testified on behalf of the RD agency.

Ms. Bragg was present and self-represented.

The witnesses were sworn in. RD had filed a copy of a Narrative along with exhibits RX-1 through RX-5 on February 12, 2010 with the OALJ Hearing Clerk and certified that it mailed a copy of the same to Petitioner. Following the hearing, RD submitted RX-6 which updated RX-5. At my request, RD then submitted a NET RECOVERY VALUE WORKSHEET (4 pages) which I now label as RX-7..

Petitioner owes \$8,588.23 on the USDA RD loan as of today, and in addition, potential fees of \$2,404.70 due the US Treasury pursuant to the terms of the Promissory Note.

Findings of Fact

1. On November 14, 1988, Petitioner Joyce A. Bragg (f/k/a Joyce A. Stevens) obtained a USDA Rural Development home mortgage loan for property located at 6## Wal*** Street, Philadelphia, MI 393**.¹ Petitioner was signor to a promissory note for \$41,500. RX-1@ p. 3 of 3.

2. On February 4, 2008, Petitioner defaulted on the note and was sent a Notice of Acceleration and Demand for Payment (Default) on the Promissory Note. Narrative, RX-3@ p. 1 of 5. At the time of the Default Notice, the balance due on the note was \$37,575.29. Narrative, RX-4.

3. The property was sold on August 21, 2008 in a short sale, after notice to Petitioner, to a new buyer for a price of \$22,600. Narrative, Ms. Kimball's testimony, RX-4.

4. The evaluation of the short sale price was prepared by RD on August 19, 2008. RX-7.

5. The total amount of debt owed after the sale was \$14,975.29. RX 4.

6. After the final sale, there were additional recoveries (net treasury offset) of \$4,985.54 which brought the Petitioner's debt down to \$8,588.23. Ms. Kimball's testimony, RX-6, Supplemental Narrative.

7. The potential fees due U.S. Treasury pursuant to the Loan Guarantee Agreement are \$2,404.70. Supplemental Narrative and RX-6.

8. There was no exhibits from Petitioner regarding her employment status or wages.

9. The Petitioner raised issues of financial hardship resulting from the garnishment process and testified that her work hours were not predictable and she less than full employment.

¹Complete address maintained in USDA records.

10. RD acquiesced to suspension of administrative wage garnishment for a period of 6 months after which Ms. Bragg's financial position may again be assessed.

11. Joyce A. Bragg is liable for the debt under the terms of the Promissory Note.

Conclusions of Law

1. Petitioner Joyce A. Bragg is indebted to USDA's Rural Development program in the amount of \$8,588.23.

2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$2,404.70.

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. Six months after the date of this order and 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.

Order

For the foregoing reasons, provided the requirements of 31 C.F.R. ¶ 288.11(i) & (j) have been met, the USDA Rural Development Agency (RD) is entitled to administratively garnish the wages of the Petitioner at the rate of 15% of her Monthly Disposable Income.

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

JAMES P. HURT
Hearing Official

April 3, 2010