

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
) **AWG Docket No. 10-0095**
Miranda Kephart,)
)
Petitioner) **Decision and Order**

1. The hearing was held as scheduled on May 14, 2010. Miranda Kephart, also known as Miranda H. Kephart, the Petitioner (“Ms. Kephart”) failed to appear. [She did not answer at the telephone number on her Hearing Request dated November 5, 2009, and she had not provided any other telephone number.] Rural Development, an agency of the United States Department of Agriculture (USDA), is the Respondent (“USDA Rural Development”) and was represented by Mary E. Kimball and Gene Elkin.

2. The address for USDA Rural Development for this case is

Mary E. Kimball, Branch Accountant
USDA / RD New Program Initiatives Branch
Bldg 105 E, FC-22, Post D-2
4300 Goodfellow Blvd
St Louis MO 63120-1703

mary.kimball@stl.usda.gov 314.457.5592 phone
314.457.4426 FAX

3. I encourage **Ms. Kephart and the collection agency** to work together to **establish a repayment schedule** rather than immediately proceeding with garnishment, even though this Decision authorizes garnishment, up to 15% of Ms. Kephart’s disposable pay. Ms. Kephart, obviously, will have to make herself available to the collection agency if she wants to negotiate.

4. This is Ms. Kephart’s case (she filed the Petition), and in addition to failing to be available for the hearing, Ms. Kephart failed to file with the Hearing Clerk any information. Ms. Kephart’s deadline for that was April 30, 2010.

Summary of the Facts Presented

5. Ms. Kephart owes to USDA Rural Development a balance of **\$51,888.05** (as of May 14, 2010) in repayment of the balance of a mortgage loan guaranteed by USDA Rural Development (“the debt”) (*see* USDA Rural Development Exs., and Ms. Kimball’s testimony, which included information regarding the recent \$1,091.00 tax refund offset, of which \$16.00 was applied to fee, and \$1,075.00 applied to Ms. Kephart’s \$52,963.05 balance).
6. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects) on **\$51,888.05** would increase the current balance to \$66,416.70.
7. Ms. Kephart’s disposable pay supports garnishment, up to 15% of Ms. Kephart’s disposable pay.

Findings, Analysis and Conclusions

8. The Secretary of Agriculture has jurisdiction over the parties, Ms. Kephart and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.
9. Ms. Kephart owes the debt described in paragraphs 5 and 6.
10. Ms. Kephart’s disposable pay supports garnishment, up to 15% of Ms. Kephart’s disposable pay (within the meaning of 31 C.F.R. § 285.11); and Ms. Kephart has no circumstances of financial hardship (within the meaning of 31 C.F.R. § 285.11).

Order

11. Until the debt is fully paid, Ms. Kephart shall give notice to USDA Rural Development or those collecting on its behalf, of any changes in her mailing address; delivery address for commercial carriers such as FedEx or UPS; FAX number(s); phone number(s); or e-mail address(es).
12. USDA Rural Development, and those collecting on its behalf, are authorized to proceed with garnishment, up to 15% of Ms. Kephart’s disposable pay.

Copies of this Decision shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.
this 14th day of May 2010

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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