

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 11-0228

In re: TRUDI S. LEE,

Petitioner

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the request of Trudi S. Lee (“Petitioner”) for a hearing to address the existence or amount of a debt alleged to be due to the United States Department of Agriculture, Rural Development (“Respondent”; “USDA RD”), and if established, the propriety of imposing administrative wage garnishment. On July 7, 2011, a telephonic hearing was held upon Petitioner’s request, filed April 25, 2011.

The Respondent filed a Narrative, together with supporting documentation¹ on June 9, 2011. Petitioner filed a Consumer Debtor Financial Report (herein identified as PX-1) on June 30, 2011. The parties’ submissions are hereby admitted to the record. At the hearing, Petitioner represented herself and Respondent was represented by Mary E. Kimball, Accountant for the New Program Initiatives Branch of RD, Saint Louis, Missouri. Petitioner and Ms. Kimball testified at the hearing.

In determining whether wage garnishment would constitute a hardship, I have considered the sworn testimony, Petitioner’s signed financial statement, Treasury Standard Form SF 329C (Wage Garnishment Worksheet), and standard geographical allowable per diem expense rates

¹ References to Respondent’s exhibits herein shall be denoted as “RX-1 through RX-8”.

(www.irs.gov; www.opm.gov). On the basis of the entire record before me, the following Findings of Fact, Conclusions of Law, and Order will be entered:

FINDINGS OF FACT

1. On April 13, 1994, the Petitioner and her ex-husband signed a promissory note for a home mortgage loan from USDA RD in the amount of \$56,000.00 for the purchase of real property located in Athens, Pennsylvania. RX-1; RX 2.
2. On August 13, 2000, Petitioner reamortized the mortgage with USDA RD and the balance due at that time was \$57,121.00.
3. On August 23, 2001, USDA RD sent a notice of acceleration of the debt to Petitioner. RX-4.
4. On September 13, 2002, Petitioner sold the real property at short sale, which yielded \$21,000.00. RX-5.
5. After accounting for expenses relating to the sale, USDA RD received \$19,855.59 which was applied against the balance of Petitioner's loan. RX-5.
6. After credit for the sale proceeds, the balance of Petitioner's account with USDA RD was \$40,207.14. RX-5.
7. Petitioner's debt was thereafter referred to the U.S. Department of Treasury ("Treasury") for collection as required by prevailing statutes and regulations.
9. A total of \$17,769.91 has been credited against the debt since it was referred to Treasury. RX 6.
10. The total of the debt is now \$28,719.65, which consists of the sum of the balance of indebtedness (\$22,437.23) plus potential Treasury fees (\$6,282.42). RX-7.
10. Treasury, through its agent, issued a notice to Petitioner of intent to garnish wages.

11. Petitioner timely requested a hearing, which was held on July 7, 2011.
12. Petitioner contested the validity of the debt, and testified that her ex-husband had left her to pay the entire indebtedness, noting that his obligation for the debt had been discharged by a bankruptcy petition.
13. Petitioner did not receive a debt settlement package from USDA RD, as she was forced to move her family in with her mother when she vacated the real property.
14. Petitioner is employed sporadically and part-time at a Head Start program, and is currently receiving no income from wages.
15. Petitioner testified that the Consumer Debtor Financial Report that she signed represents her income and expenses.
16. Because of the status of Petitioner's employment she is not entitled to worker's compensation. See, PX-1, at RX-3.
17. Petitioner's sole source of income is Title 16 Social Security Disability, Supplemental Security Income, which was recently awarded, and consists of a monthly benefit of \$472.17. PX-1 at RX-4.
18. Petitioner also qualifies for the SNAP program which provides assistance with food purchases. PX-1 at RX-5.
19. Petitioner testified that she was willing to pay the debt but had no resources.
20. Petitioner has no assets, and no vehicle to improve her likelihood of better employment. PX-1.
21. Petitioner's most recent paychecks were reduced by wage garnishment. RX-6, page 3.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.

2. Petitioner is indebted to USDA Rural Development in the amount of \$28,719.65, which consists of the sum of the balance of indebtedness, \$22,437.23 plus potential Treasury fees of \$6,282.42.
3. All procedural requirements for administrative wage offset set forth at 31 C.F.R. §285.11 have been met with respect to Petitioner.
4. Petitioner's monthly income is insufficient to meet her expenses, and I conclude from consideration of her financial statement and Treasury collection guidelines that garnishment would present a financial hardship, as that term is recognized by law.
5. Petitioner's financial status is unlikely to change, and wage garnishment would be inappropriate.

ORDER

For the foregoing reasons, the wages of Petitioner shall **NOT** be subjected to administrative wage garnishment. Should Petitioner's financial situation improve, she is encouraged to attempt to contact the representatives of Treasury to discuss the debt. The toll free number for Treasury's agent is **1-888-826-3127**.

Wage garnishments that were effected after notice of proposed wage garnishment constituted a financial hardship, and all amounts received through garnishments after April 25, 2011 shall be refunded to Petitioner.

Petitioner is advised that this Decision and Order does not prevent payment of the debt through offset of any federal money payable to Petitioner.

Petitioner is further advised that a debtor who is considered delinquent on debt to the United States may be barred from obtaining other federal loans, insurance, or guarantees. See, 31 C.F.R. § 285.13.

Petitioner shall give to USDA RD or those collecting on its behalf, notice of any change in her address, phone numbers, or other means of contact. Petitioner may direct questions to RD's representative Mary Kimball, c/o:

USDA New Program Initiatives Branch
Rural Development Centralized Servicing Center
4300 Goodfellow Blvd. F-22
St. Louis, MO 63120
314-457-5592

Petitioner's contact information has changed since her petition was filed. It is currently:

194 Horseshoe Lane
Athens, PA 18810
570-423-5044

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

So Ordered this _____ day of July, 2011 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge