

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWG Docket No. 11-0219
)
Nicole Jacobs)
Petitioner)

Decision and Order

This matter is before me upon the request of the Petitioner, Nicole Jacobs for a hearing in response to efforts of Respondent to institute a federal administrative wage garnishment against her. On May 18, 2011, 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 at the established time on June 30, 2011. USDA Rural Development Agency (RD) was represented by Ester McQuaid. Ms. McQuaid testified on behalf of the RD agency. Petitioner was present and was self-represented.

RD had filed a copy of a Narrative along with exhibits on June 7, 2011 with the OALJ Hearing Clerk and certified that it mailed a copy of the same to Petitioner. After the hearing of July 5, 2011, Ms. McQuaid filed additional exhibits RX-7, RX-8 and RX-9 which were the signed copies of RD form 3560-8 for the rental assistance periods beginning 3/26/07, 4/1/08 and 4/1/09, respectively. On August 3, 2011, RD also filed RX-8 (which I re-label as RX-10) which is an explanation of the authenticity of prior exhibit RX-4.

The witnesses were sworn in.

Petitioner submitted no documents or exhibits pursuant to the Pre-Hearing Order.

Petitioner owes \$4,224.00 on the USDA RD Rental Assistance Program as of August 04, 2011, and in addition, fees due the US Treasury of \$1,182.72 pursuant to the terms of the repayment agreement.

Findings of Fact

1. On March 26, 2007, Petitioner Nicole Jacobs obtained USDA Rural Development Rental Assistance for an apartment located at Riverside Village Apartments in Baton Rouge, LA with signed affidavit as to her income and employment status. She stated she expected to earn \$18,720.00 for that reporting period. RX-7.

2. On April 1, 2008, Petitioner Nicole Jacobs obtained USDA Rural Development Rental Assistance for an apartment located at Riverside Village Apartments in Baton Rouge, LA with signed affidavit as to her income and employment status. She stated she expected to earn \$18,720.00 for that reporting period. RX-8.

3. On April 1, 2009, Petitioner Nicole Jacobs obtained USDA Rural Development Rental Assistance for an apartment located at Riverside Village Apartments in Baton Rouge, LA with signed affidavit as to her income and employment status. She stated she expected to earn \$24,100.00 for that reporting period. RX-9.

4. The Riverside Village Apartment agency notified Petitioner on September 23, 2010 that an audit was conducted and advised Petitioner that their audit revealed improper Rental Assistance base upon employment records. RX-2, RX-3, RX-4.

5. The audit revealed that Petitioner actually had received wages from two employers totaling \$29,910 for the 2007 period, \$35,792 for the 2008 period, and \$23,923 for the 2009 period. Narrative, RX-4.

5. RD's records of Ms. Jacob's income for the reporting periods are reported directly from the State of Louisiana Workforce Commission secured website. RX-10.

6. Ms. Jacobs failed to provide any records that showed RD's records were in error.

7. Based upon Rental Assistance guidelines, Ms. Jacobs received unauthorized Rental assistance in the 2007 and 2008 reporting periods resulting in an unauthorized overpayment of \$4,224.00. RD-3, RX-4.

8. In addition, fees are due the US Treasury of \$1,182.72 pursuant to the terms of the repayment agreement. Narrative.

9. RD termed the unauthorized rental assistance as "fraudulent" Narrative at paragraph two and I therefore will not entertain any request for a financial hardship calculation. Ms. Jacobs certified information that was materially false upon which the government relied. Sec. 1001 of Title 18 U.S.C.

Conclusions of Law

1. Petitioner Nicole Jacob is indebted to USDA's Rural Development program in the amount of \$4,224.00.

2. In addition, Petitioner is indebted for fees to the US Treasury which are currently \$1,182.72.

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

4. 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(j) have been met, the wages of the Petitioner, Nicole Jacobs, shall be subject to administrative wage garnishment at the rate of 15% of disposable pay, or such lesser amount as specified in 31 C.F.R. § 285.11(i)

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

JAMES P. HURT
Hearing Official

August 4, 2011