

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 11-0284

In re: Brenda Huff
Petitioner

Decision and Order

This matter is before me upon the request of Brenda Huff, Petitioner, for a hearing to address the existence or amount of a debt alleged to be due, and if established, the terms of any repayment prior to imposition of an administrative wage garnishment. On June 16, 2011, I issued a Prehearing Order to facilitate a meaningful conference with the parties as to how the case would be resolved, to direct the exchange of information and documentation concerning the existence of the debt, and setting the matter for a telephonic hearing.

The Rural Development Agency (RD), Respondent, complied with the Discovery Order and a Narrative was filed, together with supporting documentation RX-1 through RX-7 on June 23, 2011. After the hearing and as a result of Ms. Huff's challenge of the remaining balance, RD filed the loan payment history as RX-8 on August 19, 2011. The Petitioner filed her Narrative, and her financial statement on July 5, 2011 labeled as PX-1 thru PX-8. On July 22, 2011, she filed her bi-weekly pay stub which I now re-label as PX-9.

On July 21, 2011, at the time set for the hearing, both parties were available for the hearing. Ms. Kimball of RD represented RD. Ms. Huff represented herself. The parties were sworn.

Petitioner is married, but separated, and her estranged husband is unemployed. She is the caretaker of her grandchild. Petitioner has been employed for more than one year. She sometimes receives the opportunity for overtime hours with premium pay. Ms. Huff raised the issue financial hardship. I prepared a Financial Hardship Calculation using the information supplied by Petitioner. Using her bi-weekly payroll stub and her straight time hourly pay rate, I re-calculated her gross bi-weekly income for 80 hours straight time. I proportioned all taxes from the payroll stub as if she worked 80 hours without any overtime. I retained the same deductions for medical and dental insurance per pay period. Ms. Huff has submitted a very modest monthly expense statement. Ms. Huff has not made any showing that RD's loan payment history (RX-8) is or was incorrect..

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 July 26, 1999, Petitioner obtained a loan for the purchase of a primary home mortgage loan in the amount of \$44,950.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) to purchase her home on a property located in 8## 2#th St., Cario, IL 629##¹.
RX-1, RX-2.
2. The borrower became in default and a Notice of Acceleration was mailed on May 11, 2006. RX-4.
3. A short sale was scheduled for June 3, 2008, but the property burned on May 8, 2008. Narrative.

¹ The complete address is maintained in USDA files.

4. RD received net \$52,900.33 from the Insurance proceeds. Narrative, RX-5.
5. The principal loan balance for the RD loan prior to the fire was \$39,532.45, plus \$6,762.36 for accrued interest, plus \$7,074.42 for fees, plus \$847.00 for escrow and \$56.70 in late fees for a total of \$54,272.93. Narrative, RX-6.
6. After the insurance proceeds were applied, borrower owed \$1,372.60 plus \$3,000 in pre-foreclosure fees for a total of \$4,372.60. Narrative, RX-6.
7. The U.S. Treasury has received \$2,353.84 leaving a balance due of \$2,018.76. Narrative, RX-6.
8. The remaining unpaid debt is in the amount of \$2,018.76 - exclusive of potential Treasury fees. RX-6, RX-7.
9. The remaining potential fees from Treasury are \$605.63. RX-7.
10. Ms. Huff states that she has been gainfully employed for more than one year. PX-1.
11. She is the custodian of a minor grandchild.
12. I performed a Financial Hardship calculation using the financial statements she provided².

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$2,018.76 exclusive of potential Treasury fees for the mortgage loan extended to her.
2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$605.63.
3. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.

² The Financial Hardship calculation is not posted on the OALJ website.

4. The Respondent is **not** entitled to administratively garnish the wages of the Petitioner at this time.

Order

For the foregoing reasons, the wages of Petitioner shall NOT be subjected to administrative wage garnishment at this time. After one year, RD may re-assess the Petitioner's financial position.

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

August 29, 2011

James P. Hurt
Hearing Official

Copies to: Brenda Huff
Mary Kimball
Dale Theurer

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