

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0068

In re: Tina D. Henley
f/k/a Tina Jones

Petitioner

Decision and Order

This matter is before me upon the request of 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 December 23, 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-10 on December 27, 2011. The Petitioner filed her 7 page financial statement (not including her expenses) on January 12, 2012 (which I now label as PX-1.). Petitioner has been employed at her current job for about one month. Her previous employment had a duration of only two to three months. Petitioner is the sole income earner and is the head of household, including her 15 year old daughter and her grandmother. It is unclear whether there is a Family law court child support order.

On January 24, 2012, at the time set for the hearing, both parties were available for the hearing. Ms. Tanner of RD was representing RD and was present for the telephone conference. Ms. Henley was available and represented herself. The parties were sworn.

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 March 28, 1988, Petitioner obtained a loan for the purchase of a primary home mortgage loan in the amount of \$63,900.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) to purchase her home on a property located in 1## E. At***** Avenue, Cape May Court House, NJ 082##¹. RX-1.
2. The Borrower became delinquent. After a failed Chapter 13 Plan filed on/about July 28, 1997, Borrower again became delinquent on her account. RX-3, RX-4.
3. The loan was accelerated for foreclosure on September 3, 1999.
4. A short sale was held on November 10, 2000. RX-7.
5. RD received net \$66,878.06 from the short sale. Narrative. RX-7.
6. The principal loan balance for the RD loan prior to the foreclosure was \$72,116.81, plus \$15,628.03 for accrued interest, plus \$12,715.61 for fees and protective costs for a total of \$100,460.45. Narrative, RX-10.
7. After the sale proceeds were applied, borrowed owed \$33,582.39. Narrative, RX-10.
8. Treasury has collected \$9,279.09 as a result of its off set program.

¹ The complete address is maintained in USDA files.

9. The remaining unpaid debt is in the amount of \$28,334.89 - exclusive of potential Treasury fees. RX-10.
10. The remaining potential fees from Treasury are \$6,804.92. RX-10 @ p. 3 of 3.
11. Ms. Tenley states that has been employed at her present job for one month. PX-1.
12. She is the custodial parent of one minor child and caretaker of her grandmother.
There is no evidence of court ordered child support.

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$28,334.89 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 \$6,804.22.
3. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.
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 February, 2013, 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.

January 26, 2012

James P. Hurt
Hearing Official

Copies to: Tina Henley
Michelle Tanner
Dale Theurer

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