

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0282

In re: Lori Johnson
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 April 10, 2012, 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 hearing date was mutually reset on April 26, 2012

The Rural Development Agency (RD), Respondent, complied with the Discovery Order and a Narrative was filed, together with supporting documentation RX-1 through RX-9 on April 10, 2012. Petitioner filed her financial information (which I now label as PX-1) on/about May 23, 2012. On May 16, 2012, at the time re-set for the hearing by agreement, both parties were available. Ms. Michelle Tanner represented RD. Ms. Johnson was self-represented. The parties were sworn.

Petitioner has been employed for more than one year.

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 June 6, 2008, Petitioner and Dallas Johnson obtained a loan for the purchase of a primary home mortgage loan in the amount of \$173,469.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) to purchase a home on a property located in Tallahassee, Florida. RX-2.
2. Prior to signing the loan, the borrowers signed RD form 1980-21 (Loan Guarantee). RX- 1 @ p. 2 of 3.
3. The Borrowers became delinquent. The loan was accelerated for foreclosure and the notice of a judicial sale was advertised on/about April 17, 2010. Narrative, RX-3 @ p. 2 of 11.
4. The property was appraised on July 30, 2010 at \$99,000. RX-5 @ p. 1 of 6.
5. The property was purchased by a third party for \$105,000.00 on November 12, 2010. RX-5. @ p. 3 of 6.
6. The borrowers owed \$172,972.64 for principal, plus \$16,011.82 for interest, plus \$5,601.10 for protective advancements, plus \$89.85 for interest on protective advance for a total of \$194,675.41 to pay off the RD loan. Narrative, RX-6 @ p. 13 of 13.
7. In addition, under the loan guarantee program, borrowers owe an additional \$15,664.87 for fees and expenses for a grand total of \$210,340.28. RX-6 @ p. 13 of 13.
8. USDA RD paid the lender \$96,219.46 for their loss under the loan guarantee program. Narrative, RX-6 @ p. 13 of 13.

9. Treasury has received \$9,120.82 toward the debt. RX-6 @ p. 13 of 13.
10. The remaining amount due of \$96,219.46 was transferred to Treasury for collection on April, 6, 2012. Narrative, RX-9 @ p. 2 of 5.
11. The potential Treasury collection fees are \$26,941.45. Narrative, RX-9 @ p. 2 of 5.
12. Lori Johnson is jointly and severally liable on the debt.
13. Ms. Johnson has been employed for more than one year. Testimony, PX-1.
14. Ms. Johnson raised the issue of financial hardship. I prepared a Financial Hardship Calculation.¹ Ms. Johnson is married. There are two wage earners in the family unit. (PX-1). Ms. Johnson and her husband are providing parental assistance for their parents. Ms. Johnson's financial statement stated gross bi-weekly income so I utilized an on-line Federal tax calculator. I apportioned the family unit Federal, social security and medicare taxes between the wage earners. I allowed all expenses provided by Ms. Johnson, however the family monthly disposable income was sufficient that a wage garnishment of 15% of her monthly disposable income will be allowed under the calculations.

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$96,219.46 exclusive of potential Treasury fees for the mortgage loan extended to her and under the loan guarantee program.
2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$26,941.45.

¹ The Financial hardship calculation is not posted on the OALJ website.

3. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.
4. The Respondent is entitled to administratively garnish the wages of the Petitioner at this time.

Order

For the foregoing reasons, the wages of Petitioner shall be subjected to administrative wage garnishment of up to 15% of her monthly disposable income at this time.

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

May 30, 2012

James P. Hurt
Hearing Official

Copies to: Lori Johnson
 Michelle Tanner
 Dale Theurer

Hearing Clerk's Office
U.S. Department of Agriculture
1400 Independence Avenue SW
Room 1031, South Building
Washington, D.C. 20250-9203
202-720-4443
Fax: 202-720-9776