

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0043

In re: BILLY ADAMS,

Petitioner

DECISION AND ORDER

This matter is before the Administrative Law Judge upon the request of the Billy Adams 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 7, 2009, a Prehearing Order was entered to facilitate a meaningful conference with the parties as to how the case would be resolved and to direct the exchange of information and documentation concerning the existence of the debt.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation on December 18, 2009. The Petitioner failed to file anything further with the Hearing Clerk and repeated efforts to reach him by telephone were unsuccessful.¹ At the time he requested a hearing, the Petitioner indicated that he disputed the debt and had requested a statement of pay history which he had not received. As a result of the unsuccessful efforts to contact him, on January 19, 2010, an Order was entered directing the Petitioner to provide a working telephone number so that a hearing could be scheduled; however, the time set forth in the Order expired without the Petitioner's compliance. Nothing further having been received from the Petitioner, the

¹ The file reflects that repeated efforts were made to contact the Respondent by phone and that messages were left for her at the number he/she provided on at least xx occasions.

request for hearing will be considered waived and the issues before me will be decided upon the record.

The Narrative filed by the Respondent reflects that foreclosure proceedings were brought by the lender against the Petitioner and the property was sold in a foreclosure sale. USDA was not a party to that action and the debt that is being sought to be collected arises under the Request for Single Family Housing Loan Guarantee signed by the Petitioner by which he agreed to reimburse the agency in the event a loss claim was paid on the loan. As a result of the foreclosure action, USDA Rural Development was obligated to pay the lender the sum of \$41,977.30 for accrued interest, protective advances, liquidation costs and property sale costs. Potential fees of \$11,730.95 due to the Treasury have been added and the total amount due at this time is now \$53,730.95.

On the basis of the record before me, nothing further having been received from the Petitioner, the following Findings of Fact, Conclusions of Law and Order will be entered.

Findings of Fact

1. On March 22, 2007, Billy Adams, applied for and received a home mortgage loan guarantee from the United States Department of Agriculture (USDA) Rural Development (RD) (Exhibit RX-1) and on May 11, 2007 obtained a home mortgage loan for property located at 802 Pinto Lane, Horseshoe Bend, Arkansas from J.P. Morgan Chase Bank, N.A. (Chase) for \$71,400.00 (Loan Number 1082915230). RX-2.
2. In 2008, the Petitioner defaulted on the mortgage loan and foreclosure proceedings were initiated. RX-2.

3. Chase purchased the secured property at the foreclosure sale on April 8, 2008. The property was listed for sale by Chase, but did not sell within the marketing period and Chase submitted a loss claim. USDA paid Chase the sum of \$41,977.30 for accrued interest, protective advances, liquidation costs and property sale costs. RX-2, 3.
4. Potential Treasury fees of \$11,753.95 have been added to the balance due. RX-5.
5. The remaining unpaid debt is in the amount of \$53,730.95.

Conclusions of Law

1. Billy Adams is indebted to USDA Rural Development in the amount of \$41,977.30 for the mortgage loan guarantee extended to him, further identified as Loan account number 1082915230. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.
2. The Respondent is entitled to administratively garnish the wages of the Petitioner.

Order

For the foregoing reasons, the wages of Billy Adams shall be subjected to administrative wage garnishment at the rate of 15% of disposable pay, or such lesser amount as might be 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.

Done at Washington, D.C.
March 5, 2010

PETER M. DAVENPORT
Acting Chief Administrative Law Judge

Copies to: Billy Adams
Mary Kimball
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