

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWG Docket No. 09-0190
)
Jeremy Dutra,)
)
Petitioner)

Final Decision and Order

This matter is before me upon the request of the Petitioner, Jeremy Dutra for a hearing in response to efforts of Respondent to institute a federal administrative wage garnishment against him. On October 21, 2009, former Chief Administrative Law Judge Marc. R. Hillson issued a Pre-hearing Order requiring the parties to exchange information concerning the amount of the debt.

On January 21, 2010, I was assigned to this case and on January 25, 2010, I issued a follow-up Pre-Hearing Order re-setting the hearing to February 2, 2010. As a result of unexpected inclement weather, the hearing did not occur on the scheduled date. Mr. Dutra agreed to be available for the hearing on March 25, 2010.

I conducted a telephone hearing at the scheduled time on March 25, 2010. USDA Rural Development Agency (RD) was represented by Gene Elkin, Esq., and Mary Kimball who testified on behalf of the RD agency.

The witnesses were sworn in. RD had filed a copy of a Narrative along with exhibits RX-1 through RX-5 on November 9, 2009 with the OALJ Hearing Clerk and certified that it mailed a copy of the same to Petitioner. Mr. Dutra stated that he received RD's Exhibits and witness list.

Petitioner did not submit any exhibits.

Petitioner owes \$55,706.68 on the USDA RD loan as of today, and in addition, potential fees of \$15,597.87 due the US Treasury pursuant to the terms of the Promissory Note.

Findings of Fact

1. On November 30, 2005, Petitioner Jeremy Dutra obtained a USDA Rural Development home mortgage loan for property located at #5 Jeffer*** Street, Quincy, MI 490**. ¹ Petitioner was signor to a promissory note for \$90,500. RX-2 @ p. 2 of 7.

2. On October 1, 2006, Petitioner defaulted on the note and was sent a Notice of Acceleration and Demand for Payment (Default) on the Promissory Note. Narrative, RX-2 @p. 6 of 7. At the time of the Default Notice, the balance due on the note was \$89,618.22. Narrative, RX-2 @p 6 of 7, RX-3.

3. It was appraised on November 8, 2007 for \$81,500.00. It was reappraised by a real estate broker on November 26, 2007 for \$55,000.00. It was received a RHS Liquidation appraisal on April 26, 2008 for \$43,000.00. RX-2 @ p3,4 of 7.

3. The property was sold after notice to Petitioner to a new buyer for a price of \$47,000. Narrative, Ms. Kimball's testimony, RX-3.

4. The total amount of debt owed after the sale was \$55,706.68. RX 3, RX-5.

5. The potential fees due U.S. Treasury pursuant to the Loan Guarantee Agreement are \$15,597.87. Narrative, RX-3, RX-5.

6. Petitioner stated that he was involuntarily laid off from his normal employer.

7. Jeremy Dutra is liable for the debt under the terms of the Promissory Note.

¹Complete address maintained in USDA records.

Conclusions of Law

1. Petitioner Jeremy Dutra is indebted to USDA's Rural Development program in the amount of \$55,706.68.
2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$15,304.55.
3. All procedural requirements for administrative wage garnishment set forth in 31 C.F.R. § 285.11 have been met.
4. Petitioner is under a duty to inform USDA's Rural Development of his current address, employment circumstances, and living expenses.
5. As a result of Petitioner's involuntary unemployment, administrative wage garnishment is suspended for one-year.

Order

Administration Wage Garnishment is suspended for a period of one year. After one year, RD may determine the whether the requirements of 31 C.F.R. § 288.11(i) & (j) have been met, and may, if appropriate, administratively garnish the wages of the Petitioner.

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

JAMES P. HURT
Hearing Official

March 25, 2010