

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0160

In re: KAREN PERO,
f/k/a KAREN STROUT LACLAIR,

Petitioner

DECISION AND ORDER

This matter is before the Administrative Law Judge upon the request of Karen Pero 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 22, 2010, a Prehearing Order was entered 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 on June 21, 2010.

The Respondent belatedly complied with that Order and a Narrative was filed, together with supporting documentation on May 19, 2010. On May 17, 2010, the Petitioner communicated that she had not received the Narrative which was to have been filed by May 12, 2010. Following her receipt of the Narrative, the Petitioner filed additional comments indicating her lack of knowledge concerning the debt, the passage of time and relating that her current employment is only part time and that it has been of short duration.

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 December 13, 1985, the Petitioner and Gene A. Strout, then her husband, received a home mortgage loan in the amount of \$47,000 from the United States Department of Agriculture (USDA) Farmers Home Administration (FmHA) (now Rural Development [RD]) for property located at RFD 1, Box 256, (later Crossroads), (West) Fairlee, Vermont. RX-1.
2. The property was sold following foreclosure with proceeds realized from that sale in the amount of \$70,770.02, leaving a balance due of \$16,227.29. RX-3. Following post of the sale proceeds, additional fees were paid and there was a one cent credit. Id.
3. Treasury offsets totaling \$4,156.08 (after Treasury fees) have been received. RX-3.
4. The remaining unpaid debt is in the amount of \$12,176.20. RX-3.
5. The Petitioner was terminated from her prior employment and has had her current part time employment for approximately four months.

Conclusions of Law

1. The Petitioner is jointly and severally indebted to USDA Rural Development in the amount of \$12,176.20 for the mortgage loan extended to her.
2. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met; however, due to the termination of her prior employment and the temporary nature of her current employment, her wages are not eligible for garnishment at this time.

3. The Respondent is **NOT** entitled to administratively garnish the wages of the Petitioner until such time as she has been continuously employed for a twelve month period.

Order

For the foregoing reasons, the wages of the Petitioner **MAY NOT** 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.
June 22, 2010

PETER M. DAVENPORT
Chief Administrative Law Judge

Copies to: Karen Pero
Mary Kimball
Dale Theurer

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