

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWG Docket No. 10-0163
)
Paul Dube,)
)
Petitioner)

Final Decision and Order

This matter is before me upon the request of the Petitioner, Paul Dube, for a hearing in response to efforts of Respondent to institute a federal administrative wage garnishment against him. On March 18, 2010, I issued a Pre-hearing Order requiring the parties to exchange information concerning the amount of the debt.

I conducted a telephone hearing at the scheduled time on June 4, 2010. USDA Rural Development Agency (RD) was represented by Mary Kimball who testified on behalf of the RD agency.

Petitioner was present and was self represented.

The witnesses were sworn in. RD had filed a copy of a Narrative along with exhibits RX-1 through RX-5 on May 14, 2010 with the OALJ Hearing Clerk and certified that it mailed a copy of the same to Petitioner. Mr. Dube stated that he received RD's Exhibits and witness list. Following the hearing, Petitioner submitted two pages of financial information including a weekly pay stub which I now label as PX-1.

Petitioner owes \$38,174.96 on the USDA RD loan as of today, and in addition, potential fees of \$10,688.99 due the US Treasury pursuant to the terms of the Promissory Note.

Findings of Fact

1. On May 20, 1988, Petitioner Paul Dube and Dori Dube obtained a USDA FHA home mortgage loan for property located at RR## Box 25##, Winthrop, ME, 043**.¹ Petitioner was co-signor to a promissory note for \$68,520. RX-1 @ p. 1 of 3.

2. Borrowers become delinquent on their payments and were defaulted.

3. The mortgaged property was sold in a foreclosure sale on December 17, 2001. RX-3.

4. The net amount of funds received by RD from the foreclosure sale was \$60,052.34. RX-3.

5. At the time of the judicial sale, the balance due on the note was \$100,098.36. Narrative, RX-3. After the sale, there was a charge back foreclosure fee of an additional \$1,120.

6. After the sale, Treasury recovered an additional \$2,991.06 - thus reducing the amount due from Petitioner to \$38,174.96. Narrative, RX-3.

7. The potential fees due U.S. Treasury pursuant to the Loan Guarantee Agreement are \$10,688.99. Narrative, RX-5.

8. Petitioner is jointly and severally liable on the debt under the terms of the Promissory Note.

9. Petitioner stated that he has been gainfully employed as a college custodian, but he raised issues of financial hardship.

10. Petitioner provided a financial schedule of expenses and stated his gross bi-weekly income. He subsequently provided a recent weekly pay stub. His pay stub did not show any overtime wages during the recent bi-weekly period. He primarily works on a evening shift but does not receive any shift work differential.

11. Using the Financial Hardship Calculation program and data from Petitioner's sworn testimony and financial statement (PX - 1), I made a calculation of the appropriate wage

¹Complete address maintained in USDA records.

garnishment. The calculations are enclosed.²

Conclusions of Law

1. Petitioner Paul Dube is indebted to USDA's Rural Development program in the amount of \$38,174.96.

2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$10,688.99.

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. RD may **NOT** administratively garnish Petitioner's wages at this time.

6. After one year, RD may reassess Petitioner's financial hardship criteria.

2 The Financial Hardship Calculation is not posted on the OALJ website.

Order

1. The requirements of 31 C.F.R. ¶ 288.11(i) & (j) have been met.
2. The Administrative Wage Garnishment against this debtor is suspended at this time.
3. After one year, RD may reassess Debtor's financial position and modify the garnishment percentage as circumstances dictate.
4. Copies of this Decision and Order shall be served upon the parties by the Hearing Clerk's office.

JAMES P. HURT

Hearing Official

June 29, 2010