

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
)
Ernest W. Lawson,) AWG Docket No. 10-0279
)
Petitioner)

Final Decision and Order

This matter is before me upon the request of the Petitioner, Ernest W. Lawson, for a hearing in response to efforts of Respondent, USDA’s Rural Development Agency, to institute a federal administrative wage garnishment against him. On June 10, 2010, I issued a Order requiring the parties to exchange information concerning the amount of the debt.

Rural Development filed a copy of its Narrative along with exhibits RX-1 through RX-5 on June 25, 2010. Mr. Lawson acknowledged that he received a copy of Rural Housing’s Exhibits. On July 1, 2010, Mr. Lawson filed his Narrative and exhibits. His filing included exhibits PX-1 through PX-16 as well as a copy of his Consumer Debtor Financial Statement.

I conducted a telephone hearing on July 8, 2010. Rural Development was represented by Mary Kimball who testified on behalf of the agency. Mr. Lawson and his wife were present. Mr. Lawson presented his position. All witnesses were sworn.

During the hearing, Mr. Lawson raised questions regarding a number of procedural discrepancies. These include the failure to issue a final decision within 60 days of the filing of the petition requesting the hearing, and the agency’s alleged failure to provide

required written notices. These requirements are outlined in the statute at 31 U.S.C. § 3720D(b). While the 60 day to decision requirement is an important provision in the statute, there is no showing that the agency's failure to meet the requirement in this case prejudiced Mr. Lawson. Regarding the notice issue, the agency's requirement is to send the notice to the "last known address." That places a burden on the individual to notify the agency of any changes. Mr. Lawson did not claim, nor is there evidence to support such a claim, that Mr. Lawson kept Rural Development apprised of a current address. Furthermore, these procedural discrepancies and others suggested by Mr. Lawson have no impact on the debt he owes nor whether garnishment is appropriate in this case.

Based on the testimony during the hearing and the record before me, I conclude that Mr. Lawson owes \$42,474.47 because of a default on a USDA Farmers Home Administration loan. In addition, there are potential fees of \$11,892.85 due the US Treasury for the cost of collection. I encourage Mr. Lawson and the collection agency to work together to establish a repayment schedule rather than immediately proceeding with garnishment, even though this Decision authorizes garnishment, up to 15% of Mr. Lawson's disposable pay.

Summary of the Facts Presented

1. On February 13, 1992, Ernest W. Lawson and Kelly J. Lawson received a USDA Farmers Home Administration in the amount of \$82,600.00. The loan was used to purchase a residence at 24 Scarborough Fare, Stewartstown, PA 17363. (Narrative; RX-1).

2. Mr. Lawson defaulted on the loan and a short sale was held on March 24, 1999. The amount owed on the loan at the time of the sale was \$80,968.83 in principal, \$15,191.93 in interest and \$5,216.62 in fees for a total amount due of \$101,377.38. (RX-3.)

3. USDA received \$45,790.94 from the sale of the house. Subsequent receipts from Treasury were \$13,111.97 leaving a balance due USDA on the loan from Mr. Lawson of \$42,474.47. Potential fees due to the U.S. Treasury pursuant to the Loan Agreement are \$11,892.85. (Narrative, RX-3, RX-4.)

Findings, Analysis and Conclusions

1. The Secretary of Agriculture has jurisdiction over the parties, Mr. Lawson and USDA Rural Development Agency; and over the subject matter, which is administrative wage garnishment.

2. Petitioner Ernest W. Lawson is indebted to USDA's Rural Development Agency, Rural Housing Service program in the amount of \$42,474.47.

3. In addition, Mr. Lawson is indebted for potential fees to the US Treasury in the amount of \$11,892.85.

4. All procedural requirements for administrative wage garnishment set forth in 31 C.F.R. ¶ 285.11 have been met.

5. Mr. Lawson's disposable pay supports garnishment, up to 15% of Mr. Lawson's disposable pay (within the meaning of 31 C.F.R. § 285.11); and Mr. Lawson has no circumstances of financial hardship (within the meaning of 31 C.F.R. § 285.11).

Order

Until the debt is fully paid, Mr. Lawson shall give notice to USDA Rural Development Agency, Rural Housing Service or those collecting on its behalf, of any changes in his mailing address; delivery address for commercial carriers such as FedEx or UPS; FAX number(s); phone number(s); or e-mail address(es).

USDA Rural Development Agency, and those collecting on its behalf, are authorized to proceed with garnishment, up to 15% of Mr. Lawson's disposable pay.

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

Done at Washington, D.C.
this 13th day of July 2010

STEPHEN M. REILLY
Hearing Official