

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0210

In re: ALICIA BOUCHARD,

Petitioner

DECISION AND ORDER

This matter is before the Administrative Law Judge upon the request of Alicia Bouchard 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 26, 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 July 30, 2010.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation on June 25, 2010. The Petitioner has not submitted anything further since her original request for a hearing and was not available at the time and date set for the hearing. Accordingly, by failing to be available for the hearing, the Petitioner will be deemed to have waived her right to a hearing and the matter will be decided upon the record.

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 June 29, 2001, the Petitioner and Steven A. Beane, Jr. completed a Tenant Certification and submitted the same to the Mountainview Terrace Apartment Project as part of the process for applying for rental assistance. At the time of completing the form, they reported Mr. Beane's income and based upon the income provided were approved for rental assistance.RX-2.

2. Under the Rental Assistance (RA) program any changes in income or other assistance are to be reported to the complex management.

3. In August of 2001, the Petitioner began drawing Temporary Assistance to Needy Families (TANF) benefits, but failed to disclose the payments to the complex management thereby resulting in an overpayment of rental assistance to her. TANF payments were received as follows:

August 2001	\$353
September 2001	219
October 2001	538
November 2001	363
December 2001	363
January 2002	363
February 2002	363
March 2002	363
April 2002	363
(RX-5)	

4. TANF payments are funded by a block grant under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 as part of a federal effort to "end welfare as we know it." TANF benefits replaced the Aid to Families with Dependent Children (AFDC) program which had been in existence since 1935.

5. By failing to disclose the TANF benefits, the Petitioner and her co-tenant received rental assistance benefits of \$1,090.00 to which they were not entitled to receive.

RX-7-9.

6. On July 9, 2002, the Petitioner and her co-tenant executed a Payment Agreement agreeing to repay the improper rental assistance benefits which they had fraudulently received. RX-10.

7. Payments totaling \$370.00 have been received. RX-14.

8. The remaining unpaid debt is in the amount of \$740.00, exclusive of potential Treasury fees. RX-14.

Conclusions of Law

1. Alicia Bouchard is indebted to USDA Rural Development in the amount of \$740.00, exclusive of potential Treasury fees for the rental assistance benefits fraudulently received by her.

2. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.

3. The Respondent is entitled to administratively garnish the wages of the Petitioner.

Order

For the foregoing reasons, the wages of the 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.
July 30, 2010

PETER M. DAVENPORT
Chief Administrative Law Judge

Copies to: Alicia Bouchard
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