

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0266

In re: Linda Batiste,

Petitioner

DECISION AND ORDER

This matter is before me upon the request of Linda Batiste for a hearing to address the existence or amount of a debt related to the RD rental assistance program alleged to be due, and if established, imposition of an administrative wage garnishment. On June 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 August 5, 2010.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation on July 9, 2010 and again on August 10, 2008. The Petitioner submitted an explanation with her original request for hearing and nothing further. She was not available at the time and date set for the hearing using the phone numbers she provided. Accordingly, by failing to be available for the hearing, Ms. Batiste has 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, Linda Batiste completed a Tenant Certification and submitted the same to the Multi-Family Program Director for Collins Square Apartments in Jeanerette, Louisiana as part of the process for applying for rental assistance. At the time of completing the Tenant Certification form (RD form 3560) on the February 20, 2006, Ms. Batiste reported her income and based upon the income certification provided, she was 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 rental complex management.
3. Ms. Batiste completed two other tenant certifications, to wit, September 1, 2006 and December 20, 2006. All of the certifications require that all income for the adult household occupants be declared.
4. As a result of an income audit, RD determined that Linda Batiste failed to disclose significant portions of her true household income. RX-3, RX-8.
5. In March 1, 2006, Ms. Batiste began drawing Temporary [Rental] Assistance to Needy Families [TANF] benefits, but failed to disclose the additional household income to the rental complex management on three occasions thereby resulting in an overpayment of rental assistance to her. TANF payments were received as follows:

Certification Effective date	#- Months Covered	Unauthorized Rental Assistance
March 1, 2006	4	\$1,452.00
October 1, 2006	3	\$1,089.00
January 1, 2007	2	<u>\$ 726.00</u>
TOTAL		\$3,267.00

(RX-2 & RX-8)

4. In participating states, TANF payments are funded by a block grant whereby the program provides money to the tenant in the form of a voucher that can be used as part of a rental payment.
5. By failing to disclose the additional income on her income certifications, Ms. Batiste and her household received rental assistance benefits of \$3,267.00 to which they were not entitled to receive. RX-8.
6. On February 28, 2007, Linda Batiste executed a Payment Agreement agreeing to repay the improper rental assistance benefits which she had fraudulently received. RX-6.
7. Payments totaling \$366.00 have been received. RX-14.
8. The remaining unpaid debt is in the amount of \$2,901.00, exclusive of potential Treasury fees. RX-8.

Conclusions of Law

1. Linda Batiste is indebted to USDA Rural Development in the amount of \$2,901.00, 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.
August 24, 2010

James P. Hurt
Hearing Officer

Copies to: Linda Batiste
Esther McQuaid
Dale Theurer

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