

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0260

In re: Thomasine C. Hayes,
Petitioner

DECISION AND ORDER

This matter is before the Administrative Law Judge upon the request of Thomasine C. Harris 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 July 1, 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 11, 2010.

Participating in the telephonic hearing were the Petitioner, Thomasine C. Hayes and Mary E. Kimball, Accountant for the New Program Initiatives Branch, USDA Rural Development, and Gene Elkin, Legal Liaison, Rural Development, both of St. Louis, Missouri. Diane Green, Secretary to the Chief Administrative Law Judge was also present.

In the Narrative filed by Ms. Harris, she indicated that she notified USDA in December of 2000 that the house had burned to the ground and she was under the impression that the residence had been insured by USDA at the time. The record did contain correspondence dated in 2000 from USDA indicating initially that she needed to provide proof of insurance and later informing her that insurance had been purchased

which would be added to the balance of her indebtedness. While the 2000 correspondence suggests a lack of knowledge concerning any fire loss and procurement of a policy would be inconsistent with a loss, the Sampson County fire log (RX-8) clearly places the loss in December of 1999 before the correspondence was sent and further indicates that the property had been unoccupied prior to the fire. Given the requirement contained in the mortgage to maintain hazard insurance on the property, full responsibility for the loss will fall upon the borrower.

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 , Thomasine C. Harris received a home mortgage loan in the amount of \$39,600.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) for property located in Ivanhoe, North Carolina. RX-1.
2. The property burned to the ground on December 7, 1999.
3. At the time of the fire, the Petitioner had allowed her hazard insurance coverage to lapse.
4. By reason of the loss of the residence and prior tax liens, RD declared their lien to be valueless as being worth less than the cost of foreclosure.
5. There being no proceeds available from any sale, a balance due of \$44,395.76 remained due. RX-4.
6. Treasury offsets totaling \$1,650.00 exclusive of Treasury fees have been received. RX-4.

7. The remaining unpaid debt is in the amount of \$42,745.76 exclusive of potential Treasury fees. RX-5.

8. The Consumer Debtor Financial Statement reflects a level of income less than the threshold amount for administrative wage garnishment.

Conclusions of Law

1. Thomasine C. Hayes is indebted to USDA Rural Development in the amount of \$42,745.76 exclusive of potential Treasury fees for the mortgage loan extended to her.

2. The Petitioner's monthly income is less than the amount allowable for garnishment.

3. The Respondent is NOT entitled to administratively garnish the wages of the Petitioner.

Order

For the foregoing reasons, the wages of the Petitioner may NOT be subjected to administrative wage garnishment at this time.

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

Peter M. Davenport
Chief Administrative Law Judge

August 25, 2010

Copies to: Thomasine C. Hayes
Mary E. Kimball
Dale Theurer