

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0292

In re: Russell Morrison,

Petitioner

DECISION AND ORDER

This matter is before me upon the request of Russell Morrison 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 June 29, 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 30, 2010.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation on July 3, 2010 and filed additional documentation on August 12, and September 21, 2010. Mr. Morrison filed his documentation on August 3, 2010 with Rural Development and it was forwarded to the Hearing Clerk.

On August 30, 2010 at the scheduled time, RD was available for the conference call however, neither of the phone numbers given by Petitioner were operative.

Not having any testimony from Petitioner, I will proceed under the “paper hearing” rules pursuant to 31 CFR §285.11(f)(3)(iii).

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 January 13, 1989, the Petitioner (and his then wife, Beverly Morrison) received a home mortgage loan in the amount of \$43,240.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) for property located at ##3 Cinder Aly Fulton, KY 42###.¹ RX-1.
2. The borrowers defaulted on the loan and the property was sold at a foreclosure sale on January 9, 2001 with proceeds realized from that sale in the amount of \$26,525.19, leaving a balance due of \$26,208.14. RX-3.
3. Treasury offsets totaling \$3,636.29 exclusive of Treasury fees have been received along with a “Escrow Surplus” refund of \$140.80. RX-3.
4. The remaining unpaid debt is in the amount of \$22,431.05 exclusive of potential Treasury fees. RX-4.
5. The remaining potential treasury fees are \$6,280.69. RX-4
6. Mr. Morrison has been employed for over one year.
7. Mr. Morrison submitted his financial statements under oath which included his gross weekly salary and monthly expenses, but did not state deductions for taxes (or net weekly salary).

¹ Complete address maintained in USDA files.

8. Based upon the available financial information, I performed a Financial Hardship calculation.

Conclusions of Law

1. Russell Morrison is jointly and severally indebted to USDA Rural Development in the amount of \$22,431.05 for the mortgage loan extended to him.

2. Russell Morrison is jointly and severally indebted to the US Treasury for potential fees in the amount of \$6,280.69.

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

4. The Respondent is not entitled to administratively garnish the wages of the Petitioner.

Order

For the foregoing reasons, the wages of Russell Morrison shall not be subjected to administrative wage garnishment for a period of six months.

After six months, RD may re-assess Mr. Morrison's financial position.

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

Done at Washington, D.C.
September 21, 2010

JAMES P. HURT
Hearing Officer

Copies to:

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