

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	AWG Docket No. 10-0371
Laura Clark)	
)	
Petitioner)	Decision and Order

1. The hearing by telephone was held as scheduled October 14, 2010. Laura Clark, also known as Laura J. Clark, the Petitioner (“Petitioner Clark”), failed to appear. [She failed to appear by telephone; she did not provide a phone number where she could be reached.] Rural Development, an agency of the United States Department of Agriculture (USDA), is the Respondent (“USDA Rural Development”) and was represented by Mary E. Kimball.

2. The address for USDA Rural Development for this case is

Mary E. Kimball, Branch Accountant
USDA / RD New Program Initiatives Branch
Bldg 105 E, FC-22, Post D-2
4300 Goodfellow Blvd
St Louis MO 63120-1703

mary.kimball@stl.usda.gov 314.457.5592 phone
314.457.4426 FAX

3. I encourage **Petitioner Clark 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 7.5% of Petitioner Clark’s disposable pay through April 2011; and up to 15% of Petitioner Clark’s disposable pay thereafter. Petitioner Clark, obviously, will have to make herself available to the collection agency if she wants to negotiate. *See* paragraph 9.

4. This is Petitioner Clark’s case (she filed the Petition), and in addition to failing to be available for the hearing, Petitioner Clark failed to file with the Hearing Clerk any information. Petitioner Clark’s deadline for that was October 1, 2010.

Summary of the Facts Presented

5. Petitioner Clark owes to USDA Rural Development a balance of **\$8,798.20** (two loan balances added together), in repayment of United States Department of Agriculture / Rural Housing Service loans made in 1997 for a home in Arizona, the balance of which is now unsecured (“the debt”). *See* USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed September 17, 2010), which are admitted into evidence, together with the testimony of Ms. Kimball.
6. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$8,798.20** would increase the current balance by \$2,463.50, to \$11,261.70. *See* USDA Rural Development Exhibits, esp. RX-8 and RX-9 (page 1 of RX-9 for one loan, page 2 of RX-9 for the other loan).
7. Petitioner Clark did provide with her Hearing Request a statement and a completed “Consumer Debtor Financial Statement” dated May 31, 2010, which I have taken into account in limiting the potential garnishment to no more than 7.5% of Petitioner Clark’s disposable pay through April 2011; and up to 15% of Petitioner Clark’s disposable pay thereafter. 31 C.F.R. § 285.11.
8. Petitioner Clark is responsible and willing and able to negotiate the disposition of the debt with Treasury’s collection agency.

Discussion

9. Through April 2011, garnishment up to 7.5% of Petitioner Clark’s disposable pay; and thereafter, garnishment up to 15% of Petitioner Clark’s disposable pay; is authorized. *See* paragraphs 7 and 8. I encourage **Petitioner Clark and the collection agency to negotiate promptly** the repayment of the debt. Petitioner Clark, this will require **you** to telephone the collection agency about two to three weeks after you receive this Decision. The toll-free number for you to call is **1-888-826-3127**. Petitioner Clark, you may choose to offer to the collection agency to compromise the debt for an amount you are able to pay, to settle the claim for less.
10. Petitioner Clark has made substantial progress repaying, primarily through her income tax refunds. RX-8.

Findings, Analysis and Conclusions

11. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Clark and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.
12. Petitioner Clark owes the debt described in paragraphs 5 and 6.
13. **Garnishment is authorized**, as follows: through April 2011, garnishment up to 7.5% of Petitioner Clark's disposable pay; and thereafter, garnishment up to 15% of Petitioner Clark's disposable pay. 31 C.F.R. § 285.11.
14. This Decision does not prevent repayment of the debt through *offset* of Petitioner Clark's **income tax refunds** or other **Federal monies** payable to the order of Ms. Clark.

Order

15. Until the debt is repaid, Petitioner Clark shall give notice to USDA Rural Development or those collecting on its behalf, of any changes in her mailing address; delivery address for commercial carriers such as FedEx or UPS; FAX number(s); phone number(s); or e-mail address(es).
16. USDA Rural Development, and those collecting on its behalf, are authorized to proceed with garnishment, up to 7.5% of Petitioner Clark's disposable pay through April 2011; and garnishment up to 15% of Petitioner Clark's disposable pay thereafter. 31 C.F.R. § 285.11.

Copies of this Decision shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.
this 15th day of October 2010

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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