

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
)
Lakisha Hensley,) AWG Docket No. 10-0428
)
Petitioner)

Final Decision and Order

This matter is before me upon the request of the Petitioner, Lakisha Hensley, for a hearing in response to efforts of Respondent, USDA’s Rural Development Agency, to institute a federal administrative wage garnishment against her. On September 27, 2010, I issued a Pre-hearing Order setting a hearing date and requiring the parties to exchange information concerning the amount of the debt.

Rural Development filed a copy of its Narrative along with exhibits RX-1 through RX-6 on October 14, 2010. Ms. Hensley did not file a narrative, exhibits or a Consumer Debtor Financial Statement prior to the hearing.

I conducted a telephone hearing on October 29, 2010. Rural Housing was represented by Ester McQuaid who testified on behalf of the agency. Ms. Hensley represented herself. The witnesses were sworn. Ms. Hensley acknowledged that she received a copy of Rural Development’s Narrative and Exhibits.

On October 1, 2006, Ms. Hensley moved into the Carmel Square Apartments in Shreveport, La. Ms. Hensley completed the Rural Development Tenant Certification form (Form RD 3560-8) so that she could participate in the Rental Assistance program.

On this form, Ms. Hensley certified that she had no income from wages earned. Her only stated income was from child support payments and a support payment from another individual. (RX-1). When Ms. Hensley recertified in 2007, she indicated that her only income was from child support. (RX-2).

A requirement of the Rental Assistance program is that participants notify the rental management company of changes in household income so that the level of rental assistance could be recalculated. In August 2008, Rural Development determined that Ms. Hensley had been employed at times while receiving rental assistance, and, therefore, Ms. Hensley received unauthorized rental assistance benefits. The rental management company scheduled a meeting to discuss this with Ms. Hensley but she moved prior to the meeting.

During the hearing, Ms. Hensley acknowledged that she had income during the time she received rental assistance, that the amounts of income reported by the State of Louisiana to Rural Development were generally accurate, and that she failed to report this income to the rental management company as required.

Rural Development calculated the amount of unauthorized rental assistance received by Ms. Hensley to be \$4013.00. Ms. Hensley acknowledged that this was accurate. Therefore, I find that Ms. Hensley owes Rural Development \$4013.00. In addition, there are potential fees of \$1123.64 due the US Treasury for the cost of collection for a total amount due of \$5136.64.

Ms. Hensley did not file a Consumer Debtor Financial Statement, however, during the hearing she provided to me information concerning her current financial circumstances. Based on this information, I find that garnishment is appropriate, up to 15% of Ms. Hensley's disposable pay. Ms. Hensley has been employed full time since March 2010. Because the regulations require continuous employment for 12 months prior to commencing garnishment, I am postponing the implementation of garnishment until April 1, 2011. I encourage Ms. Hensley and the collection agency to work together to establish a repayment schedule prior to proceeding with garnishment.

Findings of Fact

1. Ms. Hensley resided at the Carmel Square Apartments in Shreveport, La. from October 1, 2006, until August 8, 2008. During this time Ms. Hensley received Rental Assistance from USDA Rural Development.

2. Ms. Hensley failed to report wages she received during this time, as required by the Rental Assistance Program.

3. Rural Development determined that the amount of unauthorized rental assistance received by Ms. Hensley was \$4013.00. In addition, there are potential fees of \$1123.64 due the US Treasury for the cost of collection for a total amount due of \$5136.64.

4. I find that Lakisha Hensley is indebted to Rural Development for the amount of unauthorized rental assistance she received, \$4013.00. In addition, there are potential fees of \$1123.64 due the US Treasury.

Conclusions of Law

1. The Secretary of Agriculture has jurisdiction over the parties, Ms Hensley and USDA Rural Development Agency, Rural Housing Service; and over the subject matter, which is administrative wage garnishment.

2. Petitioner Lakisha Hensley is indebted to USDA's Rural Development Agency in the amount of \$4013.00.

3. In addition, Ms. Hensley is indebted for potential fees to the US Treasury in the amount of \$1123.64.

4. All procedural requirements for administrative wage garnishment set forth in 31 C.F.R. § 285.11 have been met except that Ms. Hensley has not been continuously employed for a period of 12 months.

5. I conclude that Ms. Hensley disposable pay supports garnishment, up to 15% of her disposable pay (within the meaning of 31 C.F.R. § 285.11); and Ms. Hensley has no circumstances of financial hardship (within the meaning of 31 C.F.R. § 285.11).

Order

Until the debt is fully paid, Ms. Hensley shall give notice to USDA Rural Development Agency, Rural Housing Service or those collecting on its behalf, of any changes in his mailing address; delivery address for commercial carriers such as FedEx or UPS; FAX number(s); phone number(s); or e-mail address(es). Ms. Hensley shall give notice to USDA Rural Development Agency, Rural Housing Service or those collecting

on its behalf, of any changes in employment including the circumstances of such changes, if any.

USDA Rural Development Agency, Rural Housing Service, and those collecting on its behalf, are authorized to garnish up to 15% of Ms. Hensley's disposable pay.

Garnishment may not commence prior to April 1, 2011.

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

Done at Washington, D.C.
this 4th day of November 2010

STEPHEN M. REILLY
Hearing Official