

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0431

In re: Karen Bennett,
Petitioner

Decision and Order

This matter is before the Administrative Law Judge upon the request of Karen Bennett 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 September 27, 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 case for a telephonic hearing on December 16, 2010.

The Respondent filed a Narrative together with supporting documentation on November 8, 2010. The Petitioner filed her material with the Hearing Clerk on November 17, 2010. At the telephonic hearing, sworn testimony was taken from the Petitioner and Mary E. Kimball, Accountant for New Programs Initiatives Branch, Rural Development, United States Department of Agriculture, St. Louis, Missouri.

On the basis of the record before me, nothing further having been received from the Petitioner, the following Findings of Fact, Conclusions of Law and Order will be entered.

Findings of Fact

1. On July 30, 2003, Karen Bennett applied for and received a home mortgage loan guarantee from Rural Development (RD), United States Department of Agriculture (USDA) (Exhibit RX-1) and on September 30, 2003 obtained a home mortgage loan in the amount of \$139,850.00 for property located in Marysville, Ohio from J. Mortgage Inc. (the loan was subsequently assigned to J.P. Morgan Chase Bank, N.A. (Chase)).
2. In 2007, the Petitioner defaulted on the mortgage loan and foreclosure proceedings were initiated. RX-3.
3. Chase submitted a loss claim and USDA paid Chase the sum of \$52,884.27 for accrued interest, protective advances, liquidation costs and property sale costs. RX-3.
4. No offsets have been received.
5. The remaining unpaid debt is in the amount of \$52,884.27, exclusive of potential Treasury fees. RX-6.
6. The Petitioner's monthly expenses roughly approximate her income and she is experiencing financial hardship at this time.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. Karen Bennett is indebted to USDA Rural Development in the amount of \$52,884.27, exclusive of potential Treasury fees for the mortgage loan guarantee extended to her.
3. By reason of her current financial hardship, administrative wage garnishment is not appropriate at this time.

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

Order

For the foregoing reasons, the wages of Karen Bennett may **NOT** be subjected to administrative wage garnishment at this time. The debt shall remain at Treasury for appropriate collection action.

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

December 16, 2010

Peter M. Davenport
Chief Administrative Law Judge

Copies to: Karen Bennett
Mary Kimball
Dale Theurer

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