

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 11-0031

In re: Lena Dawkins,

Petitioner

Decision and Order

This matter is before the Administrative Law Judge upon the request of Petitioner 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 November 24, 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 January 14, 2011.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation on October 14, 2010. The Petitioner filed her documents with the Hearing Clerk on December 14, 2010. At the telephonic hearing, testimony was received from the Petitioner and Mary E. Kimball, Accountant for the New Program Initiatives Branch, Rural Development, United States Department of Agriculture, St. Louis, Missouri. The Petitioner expressed the opinion that she should not be held liable for any deficiency as the loan was assumed by her sister and she feels that she is having to pay twice for the loan given to her.

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 May 2, 1985, the Petitioner received a home mortgage loan in the amount of \$34,500.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) for property located in Monroe, Louisiana. RX-1, 2.
2. The Petitioner defaulted on the loan and a portion of the loan was assumed by her sister Towanda Dawkins with proceeds realized from that transfer in the amount of \$15,000.00, leaving a balance due of \$21,639.98. RX-6.
3. Treasury offsets totaling \$9,751.32 exclusive of Treasury fees have been received. RX-6.
4. The remaining unpaid debt is in the amount of \$11,888.66 exclusive of potential Treasury fees. RX-6.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. Petitioner is indebted to USDA Rural Development in the amount of \$11,888.66 exclusive of potential Treasury fees for the mortgage loan extended to her.
3. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.
4. The Petitioner is not under a financial hardship.
5. The Respondent is entitled to administratively garnish the wages of the Petitioner.

Order

For the foregoing reasons, the wages of Petitioner shall be subjected to administrative wage garnishment at the rate of 15% of disposable pay, or such lesser amount as might be specified in 31 C.F.R. § 285.11(i).

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

January 21, 2011

Peter M. Davenport
Chief Administrative Law Judge

Copies to: Lena Dawkins
 Mary Kimball
 Dale Theurer

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