

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
)
Pauline Johnson,) AWG Docket No. 11-0048
)
Petitioner)

Decision and Order

This matter is before me upon the request of the Petitioner, Pauline Johnson,¹ for a hearing in response to efforts of Respondent, USDA’s Rural Development Agency, Rural Housing Service, to institute a federal administrative wage garnishment against her. On January 11, 2011, I issued a Pre-hearing Order setting the date for the hearing 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-9 on January 31, 2011. Ms. Johnson did not file a Narrative or a Consumer Debtor Financial Statement.

I conducted a telephone hearing on February 8, 2011. Rural Development was represented by Mary Kimball who testified on behalf of the agency. Ms. Johnson represented herself. The witnesses were sworn. Ms. Johnson acknowledged that she received a copy of Rural Development’s Narrative and Exhibits.

¹At the time of the loan Ms. Johnson was known as Pauline Walker. For the purposes of this decision, I will refer to her as Pauline Johnson.

On September 15, 1995, Ms. Johnson assumed a USDA Farmers Home Administration² loan to purchase her residence in Americus, GA. The loan assumption was for \$37,000.00. (RX-1). In addition, on the same day, Ms. Johnson borrowed \$3,580.00 from Farmers Home Administration to complete the purchase of the home.

On October 23, 2007, Rural Development sent Ms. Johnson a Notice of Acceleration which included a demand for payment, a notice of intent to foreclose and notice that Ms. Johnson had appeal rights and the right to request a discussion with Rural Housing concerning this loan. (RX-5) The notice gave Ms. Johnson until November 7, 2007, to request the discussion. On November 25, 2008, over a year after the deadline for a response to the Notice of Acceleration passed, Ms. Johnson sent a letter to Rural Development seeking a modification of the loan terms. (RX-6) On December 18, 2008, Rural Development denied the request as untimely.

On January 5, 2010, the house was sold at a foreclosure sale. At the time of the sale, the principal balance on the loan assumption was \$32,475.25 and the principal on the second mortgage was \$3,279.71. Interest on the loans was \$10,575.99 and \$1,028.96. Fees on the loans totaled \$7,845.32 for a total amount due at the time of foreclosure of \$55,205.20. Rural Development received \$30,000.00 from the foreclosure and an additional cost of \$320.00 was added to the balance leaving \$25,525.20 due. (RX-7).

²USDA Rural Development, Rural Housing Service is the successor agency to the Farmers Home Administration.

There are remaining potential fees due for collection of \$7,147.06 for a total of \$32,672.26.

Based on the testimony during the hearing and the record before me, I conclude that Ms. Johnson owes \$25,525.20 on the USDA Rural Housing loan. In addition, there are potential fees of \$7,147.06 due the US Treasury for the cost of collection giving a total amount due of \$32,672.26.

Ms. Johnson is currently on medical leave from her job. She developed Carpal Tunnel Syndrome that keeps her from working. She believes her job will be available after her wrist is surgically repaired and she recovers. Surgery is not scheduled at this time. She does not receive workers compensation or unemployment payments. She receives food stamps. Ms. Johnson has no other income. Therefore, I find that garnishment is not appropriate at this time. USDA Rural Development may reexamine Ms. Johnson's situation in one year to determine if Ms. Johnson finances have improved sufficiently to warrant garnishment.

Although I am not authorizing garnishment at this time, I want Ms. Johnson to understand I find that she owes the debt. Because she owes the debt to the government, Treasury will continue to obtain payment on the debt by keeping income tax returns, if any, and other payments from the government and applying those amounts to lower the debt.

Findings of the Fact

1. On September 15, 1995, Ms. Johnson assumed a \$37,000.00 USDA Farmers Home Administration loan to purchase her residence in Americus, GA.

2. On September 15, 1995, Ms. Johnson borrowed \$3,580.00 from Farmers Home Administration to complete the purchase of the home.

3. On January 5, 2010, the house was sold at a foreclosure sale. Rural Development received \$30,000.00 from the foreclosure.

4. At the time of the sale, the total amount due counting principal, interest and fees was \$55,205.20.

5. USDA applied the proceeds from the foreclosure, adding an additional expense of \$320.00 giving a balance due of \$25,525.20.

6. There are potential fees due to the U.S. Treasury in the amount of \$7,147.06 giving a total amount due of \$32,672.26.

7. Ms. Johnson is currently on medical leave from her job and has no income.

Conclusions of Law

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

2. Petitioner Pauline Johnson is indebted to USDA's Rural Development Agency, Rural Housing Service program in the amount of \$25,525.20.

3. In addition, Ms. Johnson is indebted for potential fees to the US Treasury in the amount of \$7,147.06.

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

5. I conclude that Ms. Johnson' financial circumstances, at this time, do not support garnishment.

Order

Until the debt is fully paid, Ms. Johnson shall give notice to USDA Rural Development Agency, Rural Housing Service 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). Furthermore, Ms. Johnson shall notify USDA Rural Development Agency, Rural Housing Service when her medical leave is over and she returns to work

USDA Rural Development Agency, Rural Housing Service, and those collecting on its behalf, are not authorized to proceed with garnishment at this time. USDA Rural Development may reexamine Ms. Johnson's situation in one year to determine if Ms. Johnson finances have improved sufficiently to warrant garnishment. Ms. Johnson shall provide to Rural Development, when requested, a Consumer Debtor Financial Statement to facilitate this review.

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

Done at Washington, D.C.
this 10th day of February 2011

STEPHEN M. REILLY
Hearing Official