

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
)
Rhonda White,) AWG Docket No. 11-0010
)
Petitioner)

Decision and Order

This matter is before me upon the request of the Petitioner, Rhonda White, 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 November 24, 2010, Chief Administrative Law Judge Peter M. Davenport issued a Pre-hearing Order establishing the date of the hearing and requiring the parties to exchange information concerning the amount of the debt. On January 20, 2011, Chief ALJ Davenport issued an order rescheduling the hearing for February 23, 2011. When a conflict developed in his schedule, the Chief ALJ assigned the case to my docket.

Rural Development filed a copy of its Narrative along with exhibits RX-1 through RX-8 on December 16, 2010. Ms. White did not file a narrative or a copy of her Consumer Debtor Financial Statement. Ms. White acknowledged receipt of Rural Housing’s Narrative and Exhibits.

I conducted a telephone hearing on February 23, 2011. Rural Development was represented by Mary Kimball who testified on behalf of the agency. Ms. White was represented by Todd L. Alvey, Esq. The witnesses were sworn.

On September 9, 1977, Ms. White borrowed \$27,230.00 from USDA Farmers Home Administration¹ to purchase her residence in Shamrock, TX. (RX-1, RX-2). Ms. White defaulted on the loan and on January 3, 1997, she disposed of the house by way of a short sale. USDA received \$11,500.00 from the short sale and applied that to the outstanding balance. At the time of the sale Ms. White owed \$29,723.00 on the loan – \$17,391.62 in principal, \$3,329.17 in interest and \$8,326.45 in fees. Applying the proceeds from the short sale along with \$3,380.65 subsequently collected by Treasury leaves a current balance of \$14,842.35. During the hearing, Ms. White, through counsel, acknowledged that she owes the debt. Furthermore, she accepted the amounts claimed by Rural Housing Service.

Based on the testimony during the hearing and the record before me, I conclude that Ms. White owes \$14,842.35 on the loan. In addition, there are potential fees of \$4,155.86 due the US Treasury for the cost of collection for a total amount due of \$18,998.21.

In determining if garnishment is appropriate, I examine the Ms. White's financial condition. Based on Ms. White's testimony, she has been continuously employed for over one year. She earns approximately [REDACTED] per month and receives [REDACTED] from Social Security. According to her testimony, her monthly expenses are less than [REDACTED] per month. Ms. White is married and her husband also receives Social Security, plus he

¹The USDA Farmers Home Administration is the predecessor agency to USDA's Rural Development Agency, Rural Housing Service.

has incidental income from the sale of cattle. The home Ms. White lives in was in her husband's family and she indicated there is no mortgage payment. Ms. White's husband's income is not considered in my determination whether garnishment is appropriate.

Based on the testimony at the hearing and the record before me, I conclude that Ms. White's disposable pay supports garnishment and that no financial hardship exists that would preclude garnishment. I find that garnishment is appropriate. As recommended by Ms. Kimball at the hearing, Treasury is authorized to garnish [REDACTED] per month from Ms. White's disposable pay provided that [REDACTED] does not exceed 15% of Ms. White's disposable pay. Should Ms. White's income decrease, garnishment is capped at 15% of Ms. White's disposable pay.

I encourage Ms. White and the collection agency to work together to establish a repayment schedule rather than immediately proceeding with garnishment, even though this Decision authorizes garnishment.

Findings of Fact

1. On September 9, 1977, Ms. White borrowed \$27,230.00 from USDA Farmers Home Administration to purchase her residence in Shamrock, TX.
2. Ms. White defaulted on the loan and on January 3, 1997, she disposed of the house by way of a short sale. The loan balance at that time was \$29,723.00 – \$17,391.62 in principal, \$3,329.17 in interest and \$8,326.45 in fees. USDA received \$11,500.00 from the short sale.

3. USDA applied the proceeds from the short sale to the deficiency which along with \$3,380.65 subsequently collected by Treasury leaves a current balance of \$14,842.35. In addition, there are potential fees due to the U.S. Treasury in the amount of \$4,155.86 for a total amount due of \$18,998.21.

4. Ms. White's income is [REDACTED] per month from her employment and approximately [REDACTED] from Social Security.

5. Ms. White's monthly expenses are less than [REDACTED].

Conclusions of Law

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

2. Petitioner Rhonda White is indebted to USDA's Rural Development Agency, Rural Housing Service program in the amount of \$14,842.35.

3. In addition, Ms. White is indebted to the US Treasury for potential fees in the amount of \$4,155.86.

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. White's disposable pay supports garnishment, up to [REDACTED] per month not to exceed 15% of Ms. Whites's disposable pay (within the meaning of 31

C.F.R. § 285.11); Ms. White has no circumstances of financial hardship (within the meaning of 31 C.F.R. § 285.11).

Order

Until the debt is fully paid, Ms. White 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).

USDA Rural Development Agency, Rural Housing Service, and those collecting on its behalf, are authorized to proceed with garnishment, up to [REDACTED] per month not to exceed 15% of Ms. Whites's disposable pay.

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

Done at Washington, D.C.
this 24th day of February 2011

STEPHEN M. REILLY
Hearing Official