

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
)
 Donna L. Gammon,) AWG Docket No. 11-0050
)
)
 Petitioner)

Decision and Order

This matter is before me upon the request of the Petitioner, Donna L. Gammon, 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 Housing filed a copy of its Narrative along with exhibits RX-1 through RX-9 on December 16, 2010. Ms. Gammon did not file a narrative or a copy of her Consumer Debtor Financial Statement. Ms. Gammon acknowledged receipt of Rural Housing’s Narrative and Exhibits.

I conducted a telephone hearing on February 23, 2010. Rural Housing was represented by Mary Kimball who testified on behalf of the agency. Ms. Gammon

represented herself and was accompanied by Ms. Julie Linderbaum, the real estate agent who handled the sale of the property. The witnesses were sworn.

On June 27, 2000, Ms. Gammon borrowed \$74,500.00 from USDA Rural Housing Service to purchase her residence in Ridgeway, Iowa. (RX-1, RX-2). In May 2007, Ms. Gammon re-amortized the loan, this added the amount delinquent to the outstanding principal making the new principal balance \$74,063.85. No other terms of the loan changed.

On July 27, 2009, Rural Housing sent Ms. Gammon a Notice of Default (RX-4) and on August 27, 2009, Rural Housing accelerated the loan notifying Ms. Gammon of its intent to foreclose. (RX-5). In September 2009, Ms. Gammon sought reconsideration of the foreclosure decision. Rural Housing denied the request for reconsideration. (RX-6).

With the assistance of Ms. Linderbaum, Ms. Gammon sold the property at a short sale on February 1, 2010. At the time of the sale, Ms. Gammon owed \$72,637.35 in principal, \$4,564.46 in interest and \$2,172.52 in fees. Other charges of \$72.68 bring the total owed to \$79,447.01. After selling expenses, Rural Housing received \$54,533.81 from the sale. Applying that amount and subsequent collections to the loan bring the amount due to \$24,654.05. (RX-8). In addition, there are potential fees due Treasury of \$6,903.13 for a total amount due of \$31,557.18. (RX-9).

Based on the testimony during the hearing and the record before me, I conclude that Ms. Gammon owes \$24,654.05 on the USDA Rural Housing loan. In addition, there are potential fees of \$6,903.13 due the US Treasury for the cost of collection.

In determining if garnishment is appropriate, I examine the Ms. Gammon's financial condition. Based on Ms. Gammon's testimony she has been continuously employed for over one year. She earns approximately [REDACTED] per month. She does not receive alimony or child support. Her monthly expenses include rent of [REDACTED], a car loan payment of [REDACTED] and utility payments, including phone, of [REDACTED]. In addition, she has credit card debt of approximately \$6,000.00. Furthermore, she needs to feed and provide clothing for herself and her four children. Clearly her monthly expenses exceed her monthly income. As such, I find that garnishment is not authorized at this time.

Findings of the Facts

1. On June 27, 2000, Ms. Gammon borrowed \$74,500.00 from USDA Rural Housing Service to purchase her residence in Ridgeway, Iowa.

2. In May 2007, Ms. Gammon re-amortized the loan, adding the amount delinquent to the outstanding principal, making the new principal amount owed \$74,063.85.

3. On July 27, 2009, Rural Housing sent Ms. Gammon a Notice of Default.

4. On August 27, 2009, Rural Housing accelerated the loan notifying Ms. Gammon of its intent to foreclose.

5. On February 1, 2010, Ms. Gammon sold the property at a short sale for \$60,000.00. At the time of the sale, Ms. Gammon owed \$79,447.01 in principal, interest and fees on the mortgage. After applying net proceeds from the short sale and other collected amounts to the loan balance, Ms. Gammon owes a deficiency of \$24,654.05. In

addition, there are potential fees due Treasury of \$6,903.13 for a total amount due of \$31,557.18.

5. Ms. Gammon's income is approximately [REDACTED] per month. Her expenses exceed her income.

Conclusions

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

2. Petitioner Donna L. Gammon is indebted to USDA's Rural Development Agency, Rural Housing Service program in the amount of \$24,654.05.

3. In addition, Ms. Gammon is indebted for potential fees due to the US Treasury in the amount of \$6,903.13.

4. Ms. Gammon's financial circumstances are such that garnishment is not appropriate at this time.

Order

Until the debt is fully paid, Ms. Gammon shall give notice to USDA Rural Development Agency, Rural Housing Service 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).

USDA Rural Development Agency, Rural Housing Service, is not authorized at this time to proceed with garnishment. Rural Housing may review Ms. Gammon's

financial circumstances on an annual basis and, if appropriate, seek authorization from the Office of Administrative Law Judges to proceed with garnishment at that time.

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

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

STEPHEN M. REILLY
Hearing Official