

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0118

In re: SHANNA C. CANNON

Petitioner

Decision and Order

This matter is before me 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 January 6, 2012, I issued a Prehearing Order 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.

The Rural Development Agency (RD), Respondent, complied with the Discovery Order and a Narrative was filed, together with supporting documentation RX-1 through RX-5 on January 18, 2012. The Petitioner filed 36 pages with her original request for hearing - including documents relating to her prior divorce and a hand written narrative (which I now label as PX-1). Petitioner then filed a four page financial statement on January 30, 2012. Petitioner has been employed at her current job for about nine months following an involuntary period of unemployment. Petitioner is the sole income earner and pays child support to her ex-husband to care for their 13 year old son in his custody.

On February 8, 2012, at the time set for the hearing, both parties were available

via phone. Ms. Tanner representing RD and was present for the telephone conference. Ms. Cannon was available and represented herself. The parties were sworn.

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 December 22, 1999, Petitioner and her ex-husband obtained a loan for the purchase of a primary home mortgage loan in the amount of \$75,900.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) to purchase her home on a property located in 1## Vander***** Dr., Covington, TN 380##¹. RX-1.
2. The Borrowers became delinquent and the loan was accelerated for foreclosure on September 23, 2003. RX-2.
3. At the foreclosure sale on August 20, 2004, the property was sold to a third party for \$53,000. Narrative, RX-3 @ p. 14 of 32, RX-4.
4. The principal loan balance for the RD loan prior to the foreclosure was \$73,133.25, plus \$6,738.25 for accrued interest, plus \$1,449.33 for recoverable costs and late charges of \$27.00 for a total of \$81,347.83. Narrative, RX-4.
5. After the sale proceeds were applied, borrower owed \$28,648.43. Narrative, RX-4.
6. Both parties agree that Todd Cannon filed Chapter 7 bankruptcy.
7. Treasury has collected \$6,828.00 as a result of its off-set program. RX-4.
8. The remaining unpaid debt is \$21,820.43 - exclusive of potential Treasury fees. RX-4.

¹ The complete address is maintained in USDA files.

9. The remaining potential fees from Treasury are \$6,109.72. RX-5 @ p. 2 of 3.
10. Ms. Cannon states that has been employed at her present job for nine months after a period of involuntary lay-off. PX-1.
11. She is the non-custodial parent of one minor child. There is court ordered child support in her favor; however the parties have voluntarily reversed the custody and support arrangements of the minor child.
12. Petitioner alleged a financial hardship. A Financial Hardship calculation was prepared². It is not binding on the parties since under the regulations; RD is not able to garnish wages until a after full year of employment.

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$21,820.43 exclusive of potential Treasury fees for the mortgage loan extended to her.
2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$6,109.72.
3. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.
4. The Respondent is **not** entitled to administratively garnish the wages of the Petitioner at this time.

² The Financial hardship calculation will not be posted on the OALJ website.

Order

For the foregoing reasons, the wages of Petitioner shall NOT be subjected to administrative wage garnishment at this time. After May 2012, RD may re-assess the Petitioner's financial position.

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

February 13, 2012

James P. Hurt
Hearing Official

Copies to: Shanna C. Cannon
Michelle Tanner
Dale Theurer

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