

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0256

In re: Kerry Jennings
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 March 16, 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 March 16, 2012. On April 11, 2012, at the time set for the hearing, both parties were available. Ms. Michelle Tanner represented RD. Ms. Jennings was self represented. Ms. Jennings stated that she received RD's exhibits, but she did not have them with her at the time of the hearing but she nevertheless elected to continue with the hearing. The parties were sworn.

Petitioner has been employed for more than one year. There are two wage earners and four minor children in the family unit. Petitioner receives child support for her 15

year old daughter. There is a former garnishment from a business, an outstanding bill from a physician, and a tuition loan taking funds from the family's disposable income.

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 July 7, 2000, Petitioner obtained a loan for the purchase of a primary home mortgage loan in the amount of \$36,400.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) to purchase her home on a property located in Farmington, Missouri. RX-1.
2. The Borrower reamortized the loan on/about January 7, 2007. RX-1 @ p. 4 of 11.
3. The Borrower became delinquent. The loan was accelerated for foreclosure on August 28, 2009. Narrative, RX-2.
4. The home was sold in a short sale on June 15, 2010 for \$40,000.00. RX-3 @ p. 4 of 16.
5. Prior to the short sale the Borrower owed \$56,513.38 for principal, plus interest, plus fees and recoverable costs to pay off the RD loan. Narrative, RX-5 @ 1 of 4.
6. Treasury has collected an additional \$8,758.00 towards the debt. RX-5 @ 1 of 4.
7. The remaining amount due of \$7,755.38 was transferred to Treasury for collection on March 12, 2012. RX-5 @ p.3 of 4.
8. The potential Treasury collection fees are \$2,171.51. RX-5 @ p. 3 of 4.

9. Ms. Jennings has been employed for more than one year. Her husband is also employed and she receives child support for one child.
10. There are pre-existing financial obligations for the family unit for a wage garnishment from a day care center, a school tuition loan, and a pediatrician.
11. There are ongoing expenses for full time child day care. There are four licensed drivers in the family unit.
12. I performed a Financial Hardship calculation based upon the borrower's financial statements which were submitted under oath.¹

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$7,755.38 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 \$2,171.51.
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.

¹ The Financial Harship calculation is not 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 one year, 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.

April 19, 2012

James P. Hurt
Hearing Official

Copies to: Kerry Jennings
Michelle Tanner
Dale Theurer

Hearing Clerk's Office
U.S. Department of Agriculture
1400 Independence Avenue SW
Room 1031, South Building
Washington, D.C. 20250-9203
202-720-4443
Fax: 202-720-9776