

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 13-0127

In re: ANNA K. STEWART,
formerly known as FLETCHER,

Petitioner.

Decision and Order

This matter is before the Office of Administrative Law Judges upon the December 14, 2012 request of Anna K. Stewart, formerly known as Anna K. Fletcher (“Petitioner”) for a hearing to address the existence or amount of a debt alleged to be due to the United States Department of Agriculture, Rural Development (“USDA-RD”); and if established, the terms of any repayment prior to imposition of an administrative wage garnishment. On January 15, 2013, the parties were directed to exchange information and documentation concerning the existence of the debt. In addition, the matter was set for a telephonic hearing to commence on January 31, 2013. The parties were further instructed to provide contact information for participation in the hearing.

USDA-RD filed a Narrative, together with supporting documentation, identified as RX-1 through RX-6. Petitioner did not file any documents, nor did Petitioner provide contact information as directed. However, Petitioner’s phone number was included in her request for a hearing, and none of the notices or evidence sent to Petitioner was returned as undeliverable.

On the scheduled date for the hearing, telephone calls were placed to Petitioner and Petitioner did not answer the telephone. A message was left on an answering

machine. At the end of the day, having received no response from Petitioner I held a hearing with the representative for USDA-RD, Michelle Tanner. Ms. Tanner testified and I admitted USDA-RD's exhibits to the record. Ms. Tanner credibly testified that information she had sent to the Petitioner was not returned.

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 March 5, 2003, Petitioner obtained a loan from USDA-RD in the amount of \$56,500.00 for the purchase of real property in Madison, Indiana. RX-1.
2. On that date, Petitioner also acquired a loan in the amount of \$25,000.00 from Home Federal Bank, which represented qualified housing assistance from an entity other than USDA-RD. RX 1; Ms. Tanner's testimony.
3. Pursuant to USDA rules, USDA-RD subordinated its loan position to the Home Federal Bank.
4. Petitioner's loan fell into default and on November 10, 2011, the loan was accelerated for foreclosure. RX-2.
5. On December 6, 2011, USDA-RD was advised that a foreclosure sale initiated by the servicing company for Home Federal Bank was scheduled for January 26, 2012. RX-2.
6. USDA-RD bid on the property at the sale and purchased it for \$42,405.00. RX-3.
7. The property was subsequently sold to a third party for \$55,101.00. RX-3.

8. After paying the amount due to the other subsidizing entity, USDA-RD realized \$30,557.55 as the result of the sale, which amount was credited to Petitioner's account on February 21, 2012. RX-3.

9. Prior to the sale, petitioner owed \$53,615.42 on the account, consisting of principal, interest and fees. RX-3; RX-4.

10. USDA-RD offered to compromise the debt, but Petitioner did not complete and return the offer. RX-3.

11. Pursuant to law, USDA-RD referred the account balance of \$23,057.87 to Treasury for collection on September 3, 2012. RX-3; RX-6.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.

2. Petitioner is indebted to USDA Rural Development in the amount of \$23,057.87 exclusive of potential Treasury fees.

3. All procedural requirements for administrative wage offset set forth at 31 C.F.R. §285.11 have been met.

4. Petitioner has provided no cause for why wage garnishment cannot be effected.

5. USDA-RD is entitled to administratively garnish the wages of the Petitioner at the statutory maximum rate of 15%.

6. Treasury shall remain authorized to undertake any and all other appropriate collection action.

Order

For the foregoing reasons, Petitioner shall be subjected to administrative wage garnishment at the rate of 15% of her disposable income.

Petitioner is encouraged to negotiate repayment of the debt with the representatives of Treasury. The toll free number for Treasury's agent is **1-888-826-3127**.

Petitioner is also encouraged to consult an attorney or debt collection expert regarding this debt.

Petitioner is advised that this Decision and Order does not prevent payment of the debt through offset of amounts due from the government.

Petitioner is further advised that a debtor who is considered delinquent on debt to the United States may be barred from obtaining other federal loans, insurance, or guarantees. See, 31 C.F.R. § 285.13.

Until the debt is satisfied, Petitioner shall give to USDA-RD or those collecting on its behalf, notice of any change in her address, phone numbers, or other means of contact.

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

So Ordered this 2nd day of February in Washington, D.C.

Janice K. Bullard
Administrative Law Judge