

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWG Docket No. 10-0036
)
Tasha York,)
)
Petitioner)

Decision and Order

This matter is before me upon the request of the Petitioner, Tasha York, for a hearing in response to efforts of Rural Development, Respondent, to institute a federal administrative wage garnishment against her. On November 24, 2009, I issued a Pre-hearing Order requiring the parties to exchange information concerning the amount of the debt. The Hearing date was set to be February 11, 2010.

At the scheduled date and time for the hearing, I called Ms. York on her phone number listed on her Petition at 901-876-59##¹ and left a voice mail message thaty ythe hearing was about to begin.

I commenced the hearing with Mary Kimball and Gene Elkin representing Rural Development. The witnesses were sworn in. Since Petitioner was properly notified of the hearing date and time under the rules, I proceeded with a “paper hearing.” See 31 CFR ¶ 285.11(f)(3)(iii).

RD had filed a copy of a Narrative along with exhibits RX-1 through RX-5 on December 23, 2009 with the OALJ Hearing Clerk and certified that it mailed a copy of the same to Petitioner.

¹ Complete phone number maintained in USDA Records.

Petitioner did not submit any documents or exhibits.

Petitioner owes \$36,227.38 on the USDA RD loan as of February 11, 2010, and in addition, potential fees of \$10,143.67 due to the US Treasury pursuant to the terms of the Promissory Note.

Findings of Fact

1. On May 16, 2003, Petitioner obtained a USDA Rural Development home mortgage loan for property located at 1## Ruth Sha***** Drive, Atoka, TN 380##.² Petitioner signed a promissory note for \$94,400 RX-1@ p. 1,3.

2. On June 8, 2007, Petitioner defaulted on the note and was sent a Notice of Acceleration and Demand for Payment (Default) on the Promissory Note. Narrative and Ms. Kimball's testimony. At the time of the Default Notice, the total balance due on the note was \$135,059.53. RX-4. Among the costs attributed to Petitioner due to the foreclosure were Insurance, property taxes, appraisal fees, and title report for a total of \$3,010.34.

3. The property was sold in a properly advertized foreclosure sale for \$100,000 wherein RD released the property for resale while holding Petitioner liable for the unsecured debt. RX-4.

4. The remaining balance due after the receipt of foreclosure sale proceeds was \$35,059.53. RX-4.

5. After the foreclosure sale, additional foreclosure fees in the amount of \$1,167.85 were attributed to Petitioner for a new balance due of \$36,227.38. RX-4.

6. The potential fees due U.S. Treasury pursuant to the Loan Guarantee Agreement are \$10,143.67. RX-5.

²Complete address maintained in USDA records.

7. There was no testimony or exhibits received from Petitioner regarding employment and RD has no knowledge that Petitioner is not fully employed.

8. Tasha York is liable for the debt under the terms of the Promissory Note.

Conclusions of Law

1. Petitioner Tasha York is indebted to USDA's Rural Development program in the amount of \$36,227.38.

2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$10,143.67.

3. All procedural requirements for administrative wage garnishment set forth in 31 C.F.R. ¶ 285.11 have been met.

4. Petitioner is under a duty to inform USDA's Rural Development of her current address and employment circumstances.

5. Following compliance with 31 C.F.R.¶ 285.11(j), the USDA Rural Development Agency (RD) is entitled to administratively garnish the wages of the Petitioner.

Order

For the foregoing reasons, provided the requirements of 31 C.F.R. ¶ 288.11(j) have been met, the wages of the Petitioner, Tasha York, shall be subject to administrative wage garnishment up to 15% of Monthly Disposable Income.

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

JAMES P. HURT
Hearing Official

February 16, 2010