

United States Department Of Agriculture

Before The Secretary Of Agriculture

Docket No 13 – 0093

In re: Jason Johnson

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 December 11, 2012, a prehearing order was entered 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 telephonic hearing. The hearing was reset by agreement to January 30, 2013.

On the date and time set for the hearing, both parties were present. Michelle Tanner (standing in for Giovanna Leopardi) represented Rural Development (RD) and Mr. Johnson was represented by Norma Wells, Esq. Ms. Johnson was also present. The parties were sworn. Petitioner acknowledged receiving RD's narrative and exhibits RX(1- 9) which were filed December 18, 2012. Petitioner submitted a Narrative via various e-mail attachments and submitted a Financial Statement (The final corrected version being dated January 30, 2013). In addition, during the oral testimony, Mr. Johnson added a \$40 per month water bill. Ms. Johnson is not employed outside the home. There are three minor children as dependents. I prepared a Financial Hardship Calculation¹. Mr. Johnson is a police officer in his city and has been employed for more than one year. He advises that the state of Alabama requires pension contributions of their employees.

Findings of Fact

1. On April 25, 2005, Petitioner obtained a home mortgage loan in the amount of \$79,048.00

¹ The Financial Hardship Calculation is not posted on the OALJ website.

which was guaranteed by USDA for a property in Crossville, Alabama. RX-2.

2. Prior to the signing of the note, the borrower also signed RD form 1980 – 21, which is the housing loan guarantee form. RX-1.

3. The borrower defaulted on the mortgage on/about February 28, 2008. RX-2 @ p. 18 of 24.

4. At the time of the default, the unpaid balance was \$75,463.23 as principal and \$5,351.74 as interest for a total of \$80,814.97. RX-7.

5. The property was sold in a judicial sale on October 14, 2008 with the contract price of \$68,850.00. RX-3.

6. After consideration of the various expenses incurred, USDA RD paid a loss claim to JP Morgan Chase bank, the servicing lender, in the amount of \$23,371.99. Narrative, RX-7.

7. On July 20, 2009, the borrower was sent a 60 day notification of the debt at the most at the most recent address on file. RX-8 @ p. 4. The debt was referred to treasury on November 7, 2011. RX-8.

8. Treasury has collected \$4,495.00. RX-8.

9. The remaining debt of \$13,759.07 of the borrower remains due. RX-9.

10. In addition, borrower owes potential collection fees of \$4,127.72 for a total of \$17,886.79.

11. Petitioner suggested a financial hardship.

Conclusions of Law

Petitioner is liable to USDA Rural Development in the amount of \$13,759.07 for the mortgage loan extended to him.

In addition, Petitioner is liable to USDA Rural Development for potential collection fees in the amount of \$4,127.72.

All procedural requirements for administrative wage garnishment offset set forth in 31 CFR § 285.11 have been met.

Rural Development is not entitled to the administratively garnish the wages of the Petitioner at this time.

Order

For the foregoing reasons, the wages of Petitioner shall not be subjected to administrative wage garnishment.

RD may review the financial situation of the Petitioner in 12 months. Petitioner is under an obligation to notify RD of substantial changes in his financial situation and to notify RD of any address changes.

Copies of this decision and order shall be served upon the parties by the hearing clerk's office.

February 8, 2013.

James P. Hurt
Hearing Officer

Copies to:
Norma Wells, Esq.
Michelle Tanner
Dale Thurer