

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 13-0139

In re: RITA CASTLE,
Petitioner.

Decision and Order

This matter is before the Office of Administrative Law Judges upon the request of Rita Castle (“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. By Order issued February 8, 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 March 19, 2013 and deadlines for filing documents with the Hearing Clerk’s Office were established. 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-9, on February 8, 2013. Petitioner did not file any documents, nor did Petitioner provide contact information as directed in my Order. However, Petitioner’s phone number was included in her request for a hearing.

On the scheduled date of the hearing, Petitioner appeared by telephone, representing herself. USDA-RD’s representative, Gina Zahner also testified at the

hearing. I admitted USDA-RD's exhibits to the record. Petitioner's request for a hearing is hereby identified and referenced as "PX-1".

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 1, 2011, Petitioner Rita Castle reported annual income of \$2,156.00, thereby qualifying for benefits under a rental subsidy/assistance program administered by USDA-RD. RX-1.
2. In November 2011, a review of records revealed that Petitioner had earned income in the second and third quarters of 2011 in excess of the amount she had reported. RX-2.
3. Petitioner's employer verified that she had earned \$8.00 per hour and had worked a 40 hour work week, earning income of \$16,640.00. RX-3.
4. The undisclosed income resulted in a reduction in Petitioner's rental subsidy and also resulted in an overpayment of benefits in the total of \$2,534.00. RX-4.
5. Petitioner met with representatives of USDA-RD to confirm the reduction of her subsidy. RX-6
6. Petitioner's hours of work and employment status have been erratic and she was unable to enter into a payment plan to reimburse USDA for the unauthorized rental assistance. RX-8; PX-1.
7. Petitioner no longer receives assistance as she lives with her daughter.
8. At the hearing, Petitioner credibly testified that she is not currently working, but expects to begin part-time work in the near future.

9. At the time this collection action was initiated, Petitioner was employed.
10. Petitioner reported that Treasury had offset her 2012 tax refund against this debt in late February, 2013.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. Petitioner is indebted to USDA Rural Development in the amount of \$2,534.00 exclusive of potential Treasury fees, and credits for any amount offset from tax refunds.
3. All procedural requirements for administrative wage offset set forth at 31 C.F.R. §285.11 have been met.
4. USDA Rural Development has established that the Petitioner was given actual notice of the unauthorized assistance and an opportunity to cure any default.
5. The Petitioner acknowledged that the debt is valid.
6. As Petitioner is not employed, wage garnishment cannot be effected.
7. USDA-RD is **NOT** entitled to administratively garnish the wages of the Petitioner; however the debt shall remain at Treasury for any and all other appropriate collection action.

Order

For the foregoing reasons, these proceedings are terminated.

The Hearing Clerk shall serve copies of this Decision and Order upon the parties.

So ORDERED this 20th day of March, 2013 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge