

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 11-0289

In re: Teresa Robinson

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 June 16, 2011, 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-7 on June 20, 2011. The Petitioner filed her financial statement on June 29, 2011 (which I now label as PX-1). Petitioner has been employed for more than one year but Petitioner's husband is said to be disabled due to health reasons. Petitioner did not state whether the household income includes any part of her husband's income (if any). Petitioner prepared her monthly expense statement for her household expenses, but it is unclear whether the expenses are shared or are borne by her alone. It is unclear whether Petitioner's income is net or gross. Petitioner's expense statement included two small loans, each of which are scheduled to be satisfied in less than one year. Petitioner's IRS

refund has been intercepted for several years by U.S. Treasury. On July 20, 2011 at the time set for the hearing, I called the phone number listed in Petitioner's Exhibit PX-1, but she was not available. Ms. Kimball of RD was present for the telephone conference. Neither Ms. Kimball nor I have received any communication from Petitioner as to why she was not available for the hearing that she requested.

I prepared a Financial Hardship Calculation using the information supplied by Petitioner. 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 3, 1993, James Robinson and Teresa Robinson (Petitioner) received a primary home mortgage loan in the amount of \$20,7000 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) to purchase her home on a property located in 7## E. Com**** Ave. Cooper, TX 754##¹.

RX-1, RX-2.

2. Borrowers reamortized their account on April 3, 1997 bringing the principal amount due to \$23,149.39

3. The borrowers became in default and a Notice of Acceleration was mailed on June 21, 2002. RX-4, RX-5.

4. A foreclosure sale was held on August 5, 2003

5. RD received net \$12,000 from the sale. Narrative, RX-6.

¹ The complete address is maintained in USDA files.

6. The principal loan balance for the RD loan prior to the foreclosure was \$24,387.05, plus \$4,27.57 for accrued interest, plus \$2,783.63 for fees for a total of \$31,898.25. Narrative, RX-6.
7. Treasury offsets totaling \$4,747.81 exclusive of Treasury fees have been received from borrower. RX-6.
8. The remaining unpaid debt is in the amount of \$15,007.59 - exclusive of potential Treasury fees. RX-6.
9. The remaining potential fees from Treasury are \$4,202.13. RX-7.
10. Ms. Robinson states that she has been gainfully employed for 3 years.
11. I performed a Financial Hardship calculation using the financial statements she provided².

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$15,007.59 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 \$4,202.13.
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.

Order

² The Financial Hardship calculation is not posted on the OALJ website.

For the foregoing reasons, the wages of Petitioner shall NOT be subjected to administrative wage garnishment at this time. After eight months, 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.

July 28, 2011

James P. Hurt
Hearing Official

Copies to: Teresa Robinson.
Mary Kimball
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