

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0384

In re: Joyce A. Smith,
Petitioner

Decision and Order

This matter is before the Administrative Law Judge upon the request of Joyce A. Smith 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 May 15, 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 case for a telephonic hearing on July 31, 2012.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation on June 8, 2012. The Petitioner failed to provide any material to the Hearing Clerk and did not comply with the instructions contained in the Prehearing Order. Accordingly, it will be deemed that the Petitioner has waived her right to a hearing and the issues before me will be decided on the basis of the record.

On the basis of the record before me, nothing further having been received from the Petitioner, the following Findings of Fact, Conclusions of Law and Order will be entered.

Findings of Fact

1. On June 12, 1987, the Petitioner received the first of two home mortgage loan in the amount of \$37,500.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) for property located in West Point, Mississippi. RX-1.
2. On November 30, 1987, the second loan in the amount of \$1,000.00 was made. RX-1.
3. The loans were accelerated for foreclosure on June 12, 2003 for monetary default and the property was sold at a foreclosure sale on January 12, 2004 for a bid of \$14,600.00 from a third party. RX-3.
4. After application of sale proceeds and an insurance refund, the amount due was \$25,107.25. RX-3, 4.
5. After application of Treasury offsets, the remaining unpaid debt is in the amount of \$21,835.25, exclusive of potential Treasury fees. RX-6.

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$21,835.25 for the mortgage loan extended to her.
2. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.
3. The Respondent is entitled to administratively garnish the wages of the Petitioner.

Order

For the foregoing reasons, the wages of Petitioner shall be subjected to administrative wage garnishment at the rate of 15% of disposable pay, or such lesser amount as might be specified in 31 C.F.R. § 285.11(i).

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

July 31, 2012

Peter M. Davenport
Chief Administrative Law Judge

Copies to: Joyce A. Smith
Michelle Tanner
Dale Theurer

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