

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0588

In re: Patricia Green

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 October 11, 2012, 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-10 on October 17, 2012. On November 28¹, 2012, at the time set for the hearing, both parties were available. Ms. Esther McQuaid represented RD. Ms. Green was self-represented. The parties were sworn.

Petitioner did not submit any written evidence. Her defense to RD's claim of unauthorized rental assistance is that she did not contract as alleged.

On the basis of the entire record before me, the following Findings of Fact, Conclusions of Law and Order will be entered.

¹ The hearing date was corrected from November 31, 2012.

Findings of Fact

1. On July 1, 2007 (RX-9 @ p. 1 of 28), and on July 1, 2008 (RX-9 @ p. 6 of 28), and on July 1, 2009 (RX-9 @ p. 10 of 28) and on July 1, 2010 (RX-9 @ p. 17 of 28) and on July 1, 2011 (RX-9 @ 24 of 28), Ms. Green signed RD 3560-6. (The USDA-Rural Housing Service Tenant Certification).
2. In each case, Ms. Green's signature appeared on the form below the printed words "I will reimburse the agency the unauthorized amount."
3. Along with each annual certification, Ms. Green submitted a separate "UNEMPLOYMENT STATEMENT that she was "currently unemployed."
4. For all of the annual rental assistance renewal periods, Ms. Green was gainfully employed at Trinity Industries. RX-4.
5. On February 1, 2012, Ms. Green met with the apartment management company, where her finances were reviewed and where it was determined that Ms. Green was ineligible for rental assistance. RX-3.
6. Based upon Wage match records from the state of Louisiana (RX-7) and the prescribed calculations for unauthorized rental assistance, RD calculated her unauthorized rental assistance to be \$18,114.00. RX-10.
7. Ms. Green raised an additional issue that her adult son was not in the household for a portion of the 2011 certification period.
8. RD recalculated the unauthorized rental assistance without the income from the adult child for that period of time resulting in a lowered amount of unauthorized rental assistance to \$17,784. See Addition to Narrative, RX-11.

9. In addition, Ms. Green is liable for potential treasury fees of up to 28 percent of the amount of any garnished wages.

10. RD categorized Ms. Green's actions as "fraudulent." See Narrative page 1, third paragraph.

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$17,784 exclusive of potential Treasury fees for the unauthorized rental assistance given to her.

2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$4,979.52.

3. Because RD classified her unauthorized rental assistance as "fraudulent," I decline to make a financial hardship calculation.

4. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.

5. The Respondent is entitled to administratively garnish the wages of the Petitioner at this time.

Order

For the foregoing reasons, the wages of Petitioner shall be subjected to administrative wage garnishment at this time. After one year, 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.

December 5, 2012
December 14, 2012

James P. Hurt
Hearing Official

Copies to: Patricia Green
Esther McQuaid
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