

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	AWG Docket No. 11-0115
Chain D. Witty)	
)	
Petitioner)	Decision and Order

1. The hearing by telephone was held as scheduled on March 3, 2011. Chain Witty, also known as Chain D. Witty, the Petitioner (“Petitioner Witty”), failed to appear. [She failed to appear by telephone; 3 phone calls to the phone number on her Hearing Request met with a recording; she provided no other number. She did not call back.]

2. Rural Development, an agency of the United States Department of Agriculture (USDA), is the Respondent (“USDA Rural Development”) and is represented by Mary E. Kimball. The address for USDA Rural Development for this case is

Mary E. Kimball, Branch Accountant
USDA / RD New Program Initiatives Branch
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4300 Goodfellow Blvd
St Louis MO 63120-1703

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3. I encourage **Petitioner Witty and the collection agency** to work together to **establish a repayment schedule** rather than immediately proceeding with garnishment, even though this Decision authorizes garnishment in a limited amount beginning April 2012. Petitioner Witty, obviously, will have to make herself available to the collection agency if she wants to negotiate. *See* paragraph 10.

Summary of the Facts Presented

4. USDA Rural Development's Exhibits, plus Narrative, Witness & Exhibit List, were filed on February 10, 2011, and are admitted into evidence, together with the testimony of Mary Kimball.

5. Petitioner Witty's Hearing Request plus attachments were filed on January 3, 2011, and are admitted into evidence. Petitioner Witty thought the letter from USDA Rural Development dated 04/10/2010 proved that her debt is only \$2,841.05. That amount was the "past due debt," the amount that was delinquent at that time, not the whole debt.

6. Petitioner Witty owes to USDA Rural Development **\$15,356.01** (as of January 28, 2011) in repayment of a USDA Rural Housing Service loan made in 1998 for a home in Kentucky, the balance of which is now unsecured ("the debt"). *See* USDA Rural Development Exhibits, esp. RX 6.

7. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$15,356.01**, would increase the current balance by \$4,299.68, to \$19,655.69. *See* USDA Rural Development Exhibits, esp. RX 6.

8. Petitioner Witty's disposable income is probably about \$1,000.00 per month, based on RX 7 and Petitioner Witty's Hearing Request plus attachments. [Disposable income is gross pay minus income tax, Social Security, Medicare, and health insurance withholding; and in certain situations minus other employee benefits contributions that are required to be withheld.] Although Garnishment at 15% of Petitioner Witty's disposable pay would yield roughly \$150.00 per month in repayment of the debt, she probably cannot withstand garnishment in that amount without hardship. To prevent hardship, potential garnishment to repay "the debt" (*see* paragraph 6) must be limited to 0% of Petitioner Witty's disposable pay through March 2012; then up to 3% of Petitioner Witty's disposable pay beginning April 2012 through March 2014; then up to 15% of Petitioner Witty's disposable pay thereafter. 31 C.F.R. § 285.11.

9. Petitioner Witty is responsible and willing and able to negotiate the disposition of the debt with Treasury's collection agency.

Discussion

10. Through March 2012, no garnishment is authorized. Beginning April 2012 through March 2014, garnishment up to 3% of Petitioner Witty's disposable pay is authorized; and thereafter, garnishment up to 15% of Petitioner Witty's disposable pay is authorized. *See*

paragraphs 8 and 9. I encourage **Petitioner Witty and the collection agency** to **negotiate promptly** the repayment of the debt. Petitioner Witty, this will require **you** to telephone the collection agency after you receive this Decision. The toll-free number for you to call is **1-888-826-3127**. Petitioner Witty, you may choose to offer to the collection agency to compromise the debt for an amount you are able to pay, to settle the claim for less.

Findings, Analysis and Conclusions

11. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Witty and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.

12. Petitioner Witty owes the debt described in paragraphs 6 and 7.

13. **Garnishment is authorized**, as follows: through March 2012, **no** garnishment. Beginning April 2012 through March 2014, garnishment up to 3% of Petitioner Witty's disposable pay; and thereafter, garnishment up to 15% of Petitioner Witty's disposable pay. 31 C.F.R. § 285.11.

14. Repayment of the debt may also occur through **offset** of Petitioner Witty's **income tax refunds** or other **Federal monies** payable to the order of Ms. Witty.

Order

15. Until the debt is repaid, Petitioner Witty shall give notice to USDA Rural Development or those collecting on its behalf, of any changes in her mailing address; delivery address for commercial carriers such as FedEx or UPS; FAX number(s); phone number(s); or e-mail address(es).

16. USDA Rural Development, and those collecting on its behalf, are **not** authorized to proceed with garnishment through March 2012. Beginning April 2012 through March 2014, garnishment up to 3% of Petitioner Witty's disposable pay is authorized; and garnishment up to 15% of Petitioner Witty's disposable pay thereafter. 31 C.F.R. § 285.11.

Copies of this Decision shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.
this 14th day of March 2011

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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