



**Office of Appeals
U.S. Department of Housing and Urban Development
Washington, D.C. 20410-0001**

In the Matter of:

**TAMMY RAMSEY a/k/a
ROSILIN RAMZEY,**

Petitioner.

HUDOA No. 11-M-CH-AWG41
Claim No. 5290891

Rosilin Ramzey
20758 Settlers Lake Circle N.
Katy, TX 77449

Pro se

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For the Secretary

DECISION AND ORDER

On December 22, 2010, Petitioner requested a hearing concerning a proposed administrative wage garnishment relating to debt allegedly owed to the U.S. Department of Housing and Urban Development ("HUD"). The Debt Collection Improvement Act of 1996, as amended (31 U.S.C. § 3720D), authorizes federal agencies to use administrative wage garnishment as a mechanism for the collection of debts owed to the United States government.

The administrative judges of this Office are designated to determine whether the Secretary may collect the alleged debt by means of administrative wage garnishment if contested by a debtor. This hearing is conducted in accordance with the procedures set forth at 31 C.F.R. § 285.11, as authorized by 24 C.F.R. §17.170. The Secretary has the initial burden of proof to show the existence and amount of the debt. 31 C.F.R. § 285.11(f)(8)(i). Petitioner thereafter must show by a preponderance of the evidence that no debt exists or that the amount of the debt is incorrect. 31 C.F.R. § 285.11(f)(8)(ii). In addition, Petitioner may present evidence that the terms of the repayment schedule are unlawful, would cause an undue financial hardship to Petitioner, or that collection of the debt may not be pursued due to operation of law. *Id.*

Pursuant to 31 C.F.R. §285.11(f)(4), on December 29, 2010, this Office stayed the issuance of a wage withholding order until the issuance of this written decision. (Notice of Docketing, Order and Stay of Referral, dated December 29, 2010.)

Background

Petitioner executed and delivered a Manufactured Home Retail Installment Contract (“Note”) in the amount of \$21,214.00 to A-1 Mobile Homes, Spring. (Sec’y Stat., Ex. A.) The Note was subsequently assigned to HSA Mortgage Company. (Ex. C, Declaration of Christopher C. Haspel, Director, Mortgage-backed Securities Division of Ginnie Mae (“Haspel Decl.”), dated January 24, 2011, ¶ 3; Ex. A at p. 5.) HSA Mortgage Company was defaulted by Ginnie Mae as an issuer of mortgage backed securities due to its failure to comply with Ginnie Mae mortgage backed securities program requirements. (Haspel Decl., ¶ 4.) Consequently, all of HSA Mortgage Company’s rights and interest in Petitioner’s loan were assigned to Ginnie Mae by virtue of the assignment contained in the Guaranty Agreement entered into between HSA Mortgage Company and Ginnie Mae. (*Id.*)

HUD has attempted to collect on the Note from Petitioner, but Petitioner remains in default. Petitioner is allegedly indebted to HUD in the following amounts:

- (a) \$6,147.83 the unpaid principal balance;
- (b) \$487.13 as the unpaid interest on the principal balance at 13.25% per annum through January 21, 2011; and
- (c) interest on said principal balance from January 22, 2011, until paid.

(Sec’y Stat., ¶¶ 4-5; Haspel Decl., ¶ 6.)

A Notice of Intent to Initiate Administrative Wage Garnishment Proceedings dated August 9, 2010 was mailed to Petitioner. (Sec’y Stat., ¶ 6.) Petitioner was afforded the opportunity to enter into a written repayment agreement, but did not elect to do so. (*Id.*) The Secretary proposes an administrative wage garnishment in the amount of 10% of Petitioner’s disposable pay. (*Id.* at ¶ 7.)

Discussion

Pursuant to 31 C.F.R. § 285.11(f)(8)(ii), Petitioner bears the burden of proving, by a preponderance of the evidence, that no debt exists or that the amount of the alleged debt is incorrect. Petitioner may also present evidence that the terms of the repayment schedule are unlawful, would cause a financial hardship to Petitioner, or that collection of the debt may not be pursued due to operation of law. 31 C.F.R. § 285.11(f)(8)(ii). Petitioner does not dispute the existence of the debt. Rather, Petitioner argues that “[t]his was a joint debt + I earn less than 30x minimum wage + I have worked less than one year + left my last job involuntarily.” (Pet’r’s Hr’g Req., filed December 22, 2010.)

With regards to Petitioner’s first argument that this is a joint debt, Petitioner failed to produce any evidence that the alleged debt in this case is not owed, or is not legally enforceable.

Moreover, as a cosigner on the Note, Petitioner is jointly and severally liable for the obligation. "Liability is characterized as joint and several when a creditor may sue the parties to an obligation separately or together." *Mary Jane Lyons Hardy*, HUDBCA No. 87-1982-G314, at p. 3 (July 15, 1987). This means that the Secretary may proceed against any cosigner for the full amount of the debt. Accordingly, I find that Petitioner is indebted to HUD in the amount claimed by the Secretary and that the Secretary is not barred from collecting the full amount of the debt from Petitioner.

Petitioner also claims that she has worked less than one year and was involuntarily terminated by her previous employer. (Pet'r's Hr'g Req.) 31 C.F.R. § 285.11 states in pertinent part:

j) *Exclusions from garnishment.* The agency may not garnish the wages of a debtor who it knows has been involuntarily separated from employment until the debtor has been reemployed continuously for at least 12 months. The debtor has the burden of informing the agency of the circumstances surrounding an involuntary separation from employment.

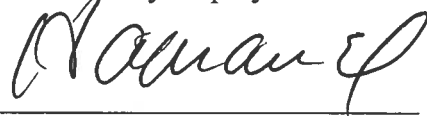
31 C.F.R. § 285.11(j). In support of her claim, Petitioner filed a letter from Wymer Management, Inc. which stated that, "Rozilin Ramzey has been an employee of McWymer Staff Services, LLC as of 5/27/2010." (Pet'r's Hr'g Req., *attach.*) On March 16, 2011, Petitioner also filed a letter from Petitioner's previous employer, who stated that "Roselyn Ramsey worked for me At Lacey Lane Child Development Center in 2007. I sold the business in 2010...She was not able to handle the children so I let her go." (Letter from Juana Rocha, filed March 16, 2011.) This Office finds that Petitioner has met her burden of demonstrating the circumstances of her involuntary separation. Accordingly, I find that HUD may not garnish Petitioner's wages at this time.

ORDER

For the foregoing reasons, it is therefore

ORDERED that the Order imposing the stay of referral of this matter to the U.S. Department of the Treasury for administrative wage garnishment shall remain in place indefinitely. The Secretary shall not seek collection of this outstanding debt by means of administrative wage garnishment at this time because Petitioner has not been continuously employed for 12 months since being involuntarily separated from her previous employment.

The Secretary shall not be prejudiced from seeking administrative wage garnishment, if, in the future, it is demonstrated that Petitioner has been continuously employed for 12 months.



H. Alexander Manuel
Administrative Judge

April 12, 2011