

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. HEA 02148-15

**NEW JERSEY HIGHER EDUCATION
STUDENT ASSISTANCE AUTHORITY,**

Petitioner,

v.

RANEY MENNONNA,

Respondent.

Philip Levitan, Esq., for petitioner (Fein, Such, Khan & Sheppard, attorneys)

Raney Mennonna, pro se

Record Closed: March 11, 2015

Decided: March 25, 2015

BEFORE **RICHARD McGILL**, ALJ:

The New Jersey Higher Education Student Assistance Authority (hereinafter “petitioner” or “NJHESAA”) seeks an administrative wage garnishment against Raney Mennonna (hereinafter “respondent,” “defendant” or “debtor”) as the result of her failure to repay a student loan guaranteed by petitioner. Respondent opposes the administrative wage garnishment on the grounds that it would result in an extreme financial hardship.

PROCEDURAL HISTORY

On or about July 30, 2014, petitioner issued a notice of administrative wage garnishment to respondent. In response, respondent submitted a request dated August 17, 2014, for a hearing by telephone.

The matter was transmitted to the Office of Administrative Law on January 28, 2015, for determination as a contested case. A telephone hearing was conducted on March 11, 2015.

ISSUE

The issue in this proceeding is whether garnishment of fifteen percent of respondent's disposal income would result in an extreme financial hardship.

UNDISPUTED FACTS

The facts in regard to the underlying indebtedness are not in dispute, and I **FIND** as follows:

1. On or about August 31, 2003, the defendant executed a Master Promissory note for guaranteed student loan(s) for the purpose of paying tuition to County College of Morris. As a result, Educaid/Wachovia disbursed the sum of \$2,625.00.
2. Pursuant to the terms of the aforesaid promissory/installment note(s), payments became due and owing thereunder on the guaranteed student loans.
3. Debtor defaulted on the aforesaid student loan(s) by failing to make the payments required thereunder.
4. As a result of the aforesaid default(s), the New Jersey Higher Education Student Assistance Authority was required to honor its guarantee. At the time NJHESAA acquired said loan(s), the amount of \$3,278.20 was due and owing. Interest

continued to accrue pursuant to the promissory note. Collection costs have been assessed pursuant to 34 C.F.R. § 682.410(b)(2).

5. On or about July 30, 2014, NJHESAA, acting pursuant to 20 U.S.C.A. §1095a(a) et seq. and 34 C.F.R. §682.410(c), issued a notice of administrative wage garnishment to the defendant.
6. The defendant timely filed this appeal of NJHESAA's notice.

SUMMARY OF EVIDENCE

Brian Lyszkiewicz is employed by respondent as an investigator. Investigator Lyszkiewicz testified that the outstanding balance on respondent's student loan is now \$3,928.89.

Respondent testified that she works twenty hours per week for Jersey Battered Women's Services and that she is paid \$18 per hour. Respondent is currently married, and she has two children ages ten and seven. Respondent states that she will file for divorce. Respondent uses her income to pay for food for her children, extracurricular activities and household bills. Respondent is looking for a job in school security, and she expects to finish school in one and a half years.

LAW AND ANALYSIS

Pursuant to federal law, a guaranty agency such as petitioner may garnish the disposable pay of an individual to collect the amount owed by that individual, if he or she is not currently making the required repayment. 20 U.S.C.A. § 1095a(a) The amount deducted may not exceed fifteen percent of disposable pay. 20 U.S.C.A. § 1095a(a)1.

In order to impose an administrative garnishment, petitioner must present records to establish the existence and amount of the debt and that the debt is delinquent. 34 C.F.R. § 34.14(a). A debtor who objects to a proposed garnishment on the basis of financial hardship has the burden to prove by a preponderance of the credible evidence that withholding the amount of wages proposed in the notice would leave the individual unable to meet basic living expenses. 34 C.F.R. § 34.14(c)1. To prove a claim of financial hardship, the debtor must prove by credible documentation the amounts of costs incurred for basic living and the income available from any source to meet those expenses. 34 C.F.R. § 34.24(d).

Here, petitioner established the existence and amount of respondent's debt and the fact that respondent is delinquent with respect to the debt. In contrast, respondent has failed to present any documentation in regard to her income and expenses. Therefore, I **CONCLUDE** that petitioner has demonstrated by a preponderance of the credible evidence that an administrative wage garnishment is warranted by the facts of this case and that respondent has failed to establish that an administrative wage garnishment would create an extreme financial hardship.

Accordingly, it is **ORDERED** that an administrative wage garnishment shall be issued immediately directing respondent's employer to deduct from her wages an amount equal to fifteen percent of her disposable wages and remit this amount to the New Jersey Higher Education Student Assistance Authority until such time as her outstanding debt resulting from her student loan has been repaid.

This decision is final pursuant to 34 C.F.R. § 682.410(b)9(i)(J) and (N).

March 25, 2015

DATE
ljb

RICHARD McGILL, ALJ

APPENDIX

WITNESS LIST

For petitioner:

Brian Lyczkiewicz

For respondent:

Raney Mennonna

EXHIBIT LIST

P-1 Affidavit of Janice Seitz dated December 4, 2014, with attachments

P-2 Letter dated March 10, 2015, from Janice Seitz with attachment