

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. HEA 01267-16

AGENCY DKT. NO. N/A

**NEW JERSEY HIGHER STUDENT
ASSISTANCE AUTHORITY,**

Petitioner,

v.

DOROTHY JONES,

Respondent.

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

Dorothy Jones, respondent appearing on the papers pursuant to N.J.A.C. 1:1-5.6

Record Closed: March 8, 2016

Decided: April 6, 2016

BEFORE **JEFFREY A. GERSON**, ALJ:

STATEMENT OF THE CASE

The New Jersey Higher Education Student Assistance Authority (NJHESAA) acting under the authority of 20 U.S.C.A. ¶1095(a) et seq. and 34 C.F.R. 682.410(b)(10) moves to obtain an Administrative Wage Garnishment against Dorothy Jones. Jones, after being notified of the request for a wage garnishment, filed a request for a hearing contending that the garnishment of 15% would result in extreme

financial hardship. The request for a hearing was signed and filed on November 9, 2015.

On or about January 21, 2016, this matter was forwarded to the Office of Administrative Law for hearing. The hearing was conducted on March 8, 2016.

BACKGROUND

Not in dispute is the fact that on or about October 4, 2006, Dorothy Jones executed a promissory note for a guaranteed student loan in the amount of \$10,540.

Payments were required on the note, but Jones failed to make them and the loan was defaulted. As a result of the default, there is presently due and owing \$12,846.01.

On or about October 28, 2015, NJHESAA issued a notice of Administrative Wage Garnishment from which Jones requested a hearing.

At the hearing, through their witness Mr. Lyszkiwcz, a Student Loan Investigator, documentation was submitted attached hereto as P-1 which established the debt and the default.

Despite the filing of the request for a hearing in which Ms. Jones contended that the 15% garnishment would create a financial hardship, nothing has been submitted by Jones to support this contention.

THE LAW

NJHESAA is a State designated agency responsible for administration of the Loan Guarantee Program for Federal and State funded student loans. N.J.A.C. 9A:10-1.4. After purchasing an overdue loan from a lender, NJHESAA may collect the debt by appropriate means, including garnishment of wages. Federal regulations allow the borrower to dispute the existence or the amount of the loan, 34 C.F.R. 34.14(b) or to

demonstrate financial hardship (34 C.F.R. 34.14(c)). When a lender submits a claim for purchase by NJHESAA of a defaulted loan, NJHESAA first determines the legitimacy of the claim for purchase by NJHESAA of a defaulted loan and ensures that all Federal and State requirements for default a version had been followed. If NJHESAA determines that “due diligence” has been met and purchases the loan from the lender, NJHESAA then seeks to collect on the debt. N.J.A.C. 9A:10-1.4(b)(7) and (8); N.J.A.C. 9A:10-1.14(b).

Initially, NJHESAA bears the burden of proving by a preponderance of the competent relevant and credible evidence, the existence and the amount of the debt. 34 CFR 34.14(c) and (d). In this matter, NJHESAA produced documentation establishing the existence of the debt and the amount currently in default. NJHESAA has sustained its burden of proof and Dorothy Jones has failed to demonstrate by a preponderance of the evidence that she will undergo a severe hardship as a result of the garnishment.

CONCLUSIONS OF LAW

NJHESAA has shown by a preponderance of the evidence that a debt in the amount of \$17,759.24 is currently due and owing and that the responsibility to repay is not in dispute.

Dorothy Jones submitted nothing to substantiate her claim of financial hardship.

ORDER

It is **ORDERED** that the amount now sought by the NJHESAA be recovered by garnishment not to exceed 15% of disposal wages.

This decision is final pursuant to 34 C.F.R. § 682.410(b)(9)(i)(N) (2010).

April 6, 2016
DATE

JEFFREY A. GERSON, ALJ

Date Received at Agency:

April 6, 2016

Date Mailed to Parties:
sej

APPENDIX

WITNESSES

For Petitioner

None

For Respondent

Mr. Lyszkiwcz, Investigator

EXHIBITS

For Petitioner

P-1 Student Loan Packet

For Respondent

None