



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

In the Matter of:

Earl Matthew Clewis,

Petitioner

HUDOA No. 10-H-NY-LL62
Claim No. 7-807151880A

Earl Matthew Clewis
11049 New Britton HWY East
Whiteville, NC 28472

Pro se

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For the Secretary

ORDER OF DISMISSAL

In 24 C.F.R. § 17.152(b) it provides that failure by the Petitioner to submit evidence within 65 calendar days from the date of the Department's Notice of Intent, will result in a dismissal of Petitioner's request for review by the HUD Office of Appeals.

Petitioner states "I am writing to you in hopes of our tax refund not being offset by HUD. We did everything we possibly could to keep our home. My wife was taken out of work due to her health. I lost my job due to the economy. Gas and oil prices went way high and my employer, Wally King with New Forrest Technology, had no work for me to do. I was let go. I filed for unemployment which I got but it wasn't enough to make ends meet." (Petitioner's Request for Hearing, ("Request for Hearing", filed February 26, 2010.)

While Petitioner was ordered on three occasions to submit documentary evidence in support of his position beyond that submitted with his hearing request, he failed to comply with any of those Orders.

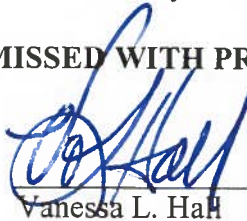
This Office acknowledges Petitioner's financial circumstances, but the law provides "unfortunately, in administrative offset cases evidence of financial hardship, no matter how

compelling, cannot be taken into consideration in determining whether the debt is past-due and enforceable.” *Edgar Joyner, Sr.*, HUDBCA No. 04-A-CH-EE052 (June 15, 2005); *Anna Filiziana*, HUDBCA No. 95-A-NY-T11 (May 21, 1996); *Charles Lomax*, HUDBCA No. 87-2357-G679 (February 3, 1987). Financial adversity does not invalidate a debt or release a debtor from a legal obligation to repay it. *Raymond Kovalski*, HUDBCA No. 87-1681-G18 (December 8, 1986). Furthermore, no regulation or statute currently exist that permits financial hardship to be considered as a basis for determining whether a debt is past-due and enforceable in cases involving debt collection by means of administrative offset. Thus, consistent with case law precedent and statutory limitations, I find that financial hardship cannot be considered as a defense in this case as the debt owed by Petitioner is sought to be collected by means of administrative offset.

Petitioner also states “We planned to use our tax refund to buy a used mobile home we can pay cash for and fix up along the way. Please forgive our debt.” While this Office is not authorized to extend, recommend, or accept any payment plan or settlement offer on behalf of the HUD, or to forgive a debt, Petitioner may wish to discuss this matter with either Counsel for the Secretary or Lester J. West, Director, HUD Albany Financial Operations Center, 52 Corporate Circle, Albany, NY 12203-5121. His telephone number is 1-800-669-5152, extension 4206.

Upon due consideration of Petitioner’s failure to comply with 24 C.F.R. § 17.152(b), Petitioner’s appeal is DISMISSED *sua sponte*. It is hereby

ORDERED that this matter be **DISMISSED WITH PREJUDICE**.



Vanessa L. Hall
Administrative Judge

July 13, 2010