



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

August 30, 2023

CBCA 7795-DBT

In the Matter of RHONDA J.

Rhonda J., Petitioner.

Kimberly I. Thayer, Office of General Counsel, National Tort Claims Center, General Services Administration, Washington, DC, appearing for General Services Administration.

RUSSELL, Board Judge.

Petitioner seeks review of notices of debt collection by wage garnishment that were issued by the General Services Administration (GSA), the most recent notice dated January 18, 2023. The notices relate to a car accident involving a vehicle that petitioner was driving and a government vehicle. Based on the evidentiary record, the Board finds that a legally enforceable debt exists.

Background

I. Procedural Background

On June 22, 2023, the Board docketed the above-captioned case involving petitioner's request for an administrative wage garnishment (AWG) hearing pursuant to 31 U.S.C. § 3720D(c) (2018). Petitioner requested the hearing challenging the existence of a debt owed to GSA. *See* 41 CFR 105-57.002(o) (2022) ("*Hearing* means a review of the documentary evidence concerning the existence and/or amount of a debt . . ."). GSA submitted this case to the Board on petitioner's behalf.

On July 27, 2023, GSA timely submitted documents in response to the Board's order of July 5, 2023, requesting that the agency "in an administrative report and/or other written submission . . . provide any additional information, not already filed with the Board and

provided to Petitioner, finding, evidencing, or otherwise reflecting that Petitioner is legally responsible for the accident which is the subject of this case, and the extent to which Petitioner previously contested or had the opportunity to contest such a finding.” The Board explained that “GSA’s administrative report or other written submission must include all applicable facts and points of law that GSA wants the Board to consider as to why a debt is owed in this case . . . with citations or references to produced documentation when available.” Also in its order of July 5, 2023, the Board stated that “if she so chooses, Petitioner may provide a written response to GSA’s submission by Friday, August 11, 2023.” Petitioner did not submit a response.

A telephonic hearing in this case was scheduled for August 23, 2023. The parties were notified of this date in the Board’s order of July 5, 2023, along with email communications dated August 17 and 22, 2023. Additionally, on August 22, 2023, a Board paralegal called petitioner regarding the hearing but did not receive a response. The agency’s attorney subsequently attended the hearing, but petitioner did not. During the telephonic hearing, the agency’s attorney stated that the agency did not have any additional information to add to the record. Petitioner was called on August 23, 2023, after the hearing but, as of the date of this decision, has not responded to that call.

II. Factual Background

On February 20, 2020, petitioner was involved in a car accident with a driver of a government vehicle in Oakmont, Pennsylvania. The police crash report stated that petitioner, driving a vehicle owned by another party, failed to clear an intersection before proceeding and subsequently struck the government vehicle. The accident was attributed to petitioner failing to stop at a red signal with “no contributing action” on the part of the driver of the government vehicle. The record contains an accident report from the driver of the government vehicle which is consistent with the facts stated in the police crash report. The record does not include an accident report from petitioner.

The record also shows that the government vehicle was totaled, with a replacement value of \$8975 (an amount supported by a National Automobile Dealers Association (NADA) vehicle value report), and that the Government incurred \$500 in storage and \$610 in towing expenses. However, the Government was able to sell the vehicle at auction for \$800, so its damages were reduced to \$9285(\$8975+\$500+\$610-\$800). As of January 18, 2023, the Government was seeking \$14,346.44 from petitioner, inclusive of interest.

Discussion

If GSA “determines a delinquent debt is owed by an individual, [it] may initiate administrative proceedings to garnish the wages of the delinquent debtor.” 41 CFR 105-57.003. As petitioner did here, a debtor may request a hearing “concerning the existence and/or amount of the debt.” *Id.* 105-57.004(b)(3). “[W]henever GSA is required to afford a debtor a hearing, the hearing official will provide the debtor with a reasonable opportunity for an oral hearing when he/she determines that the issues in dispute cannot be resolved by review of the documentary evidence, for example when the validity of the claim turns on the issue of credibility or veracity.” *Id.* 105-57.005(b)(1).

GSA has the initial “burden of establishing the existence and/or amount of the debt.” 41 CFR 105-57.005(f)(1). “Thereafter, if the debtor disputes the existence and/or amount of the debt, the debtor must prove by a preponderance of the evidence that no debt exists or that the amount of the debt is incorrect.” *Id.* 105-57.005(f)(2).

Although the record in this case strongly favors GSA, the Board nevertheless afforded petitioner the opportunity to have a hearing due to her denial that she owed the debt. However, petitioner failed to attend the telephonic hearing and failed to respond to the Board’s efforts to reach out to her. Given petitioner’s actions (or, perhaps more accurately, lack thereof), we find that she has waived her right to a hearing and to present evidence in this case. 41 CFR 105-57.005(k) (“In the absence of good cause shown, a debtor who fails to appear at a hearing [on a wage garnishment matter] . . . or to provide written submissions within the time set by the hearing official, will be deemed to have waived his or her right to appear and present evidence.”).

Thus, we turn to the issue of whether GSA can collect from petitioner, by wage garnishment, the damages that it seeks. We find that GSA has produced sufficient evidence to meet its burden of proof. The most compelling evidence is the police crash report indicating that petitioner was at fault for the accident. Additionally, GSA provided proof of its damages, submitting the invoice for the towing and storage costs as well as the NADA report to support the replacement value of the totaled vehicle. Accordingly, we find that GSA has proved its case against petitioner on both liability (specifically, that petitioner was responsible for the accident) and damages (that is, petitioner owes GSA for the expenses that the agency incurred and the replacement value of the vehicle, plus any interest, penalty, and administrative costs required to be collected by law, *see* 31 U.S.C. § 3717).

Decision

The Board finds that a legally enforceable debt exists in this matter.

Beverly M. Russell
BEVERLY M. RUSSELL
Board Judge