



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

May 16, 2024

CBCA 8044-DBT

In the Matter of SHAYLA C.

Shayla C., Petitioner.

Aaron J. Pound, Office of General Counsel, General Services Administration, Washington, DC, appearing for General Services Administration.

RUSSELL, Board Judge.

On March 14, 2024, the Board docketed the petitioner's request for review of the General Services Administration's (GSA) notice of intent to initiate administrative wage garnishment proceedings related to salary and leave overpayments made to petitioner, a former GSA employee. Because we find that an enforceable debt exists, we deny the petition.

Background

On January 5, 2023, GSA terminated petitioner's employment with the agency. GSA subsequently determined that it had paid petitioner for the full, eighty-hour pay period ending on January 4, 2023, and for six hours of annual leave, rather than for the 33.5 hours that petitioner actually worked in that pay period. GSA initially sought to recover \$2249.89 from petitioner through administrative wage garnishment but reduced this amount to \$1650.51 after applying "required offsets" such as federal, medicare, and state taxes, as well as social security and retirement contributions.

On December 16, 2023, petitioner requested a hearing before the Board and subsequently provided additional information to support a challenge to GSA's proposed garnishment. In a submission dated April 15, 2024, petitioner argued that she was not the one who submitted the erroneous timecard and, thus, should not be held responsible for the

salary overpayment made as a result of its submission. Petitioner also explained that she is not working currently and has filed for social security benefits. Petitioner argued that the loss of income directly affects her ability to pay the erroneous amount paid to her. She additionally explained that she has submitted multiple waiver requests to GSA seeking relief from the proposed garnishment to which the agency has yet to respond.

For its part, GSA, in its submission in this proceeding, argued that petitioner is responsible for the overpayment even though petitioner was not the person who submitted the erroneous timecard. Among other documents, GSA supported the proposed garnishment by providing a letter it sent to petitioner which explained the debt and which was accompanied by copies of petitioner's time and attendance record for the dates at issue, as well as petitioner's earnings and leave statement for the pay period ending January 14, 2024.

On May 8, 2024, the Board conducted a telephonic hearing at which petitioner and GSA reiterated their respective positions, although GSA committed to following up with petitioner on the status of her waiver requests.

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 (2023). 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." *Id.* 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).

As suggested above, the purpose of our review is to determine whether the debt exists and/or the amount at issue if it does. *Id.* 105-57.004(b)(3). Here, GSA has produced sufficient evidence through the payroll records to meet the burden of proving the existence of the debt at issue and the amount. Petitioner has not met her burden of proof "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). The fact that the overpayments were made in error, through no fault of petitioner, does not relieve petitioner of her responsibility to repay GSA the improperly paid amount.¹ Thus, we find that an enforceable debt exists.

Decision

The petition is denied.

Beverly M. Russell

BEVERLY M. RUSSELL
Board Judge

¹ Petitioner may continue to seek relief through a waiver, although perhaps not from GSA nor from the Comptroller General, as GSA’s Notice of Employee (Debtor) Rights sent to petitioner incorrectly suggests, but through the Office of Management and Budget. *See* 5 U.S.C. § 5584 (2018) (“A claim of the United States against a person arising out of an erroneous payment of pay or allowances” may be waived by the head of the agency if the amount is not more than \$1500 or, if greater than this amount, by the Director of the Office of Management and Budget.). Further, petitioner asserted that she was involuntarily terminated from her position at GSA. GSA regulations state that the agency “will 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 GSA of the circumstances surrounding an involuntary separation from employment.” 41 CFR 105-57.009. Petitioner might be able to obtain relief from the proposed garnishment under this provision but must do so through GSA.