

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR HENNEPIN COUNTY, MINNESOTA

In the Matter of the Revenue Recapture Hearing  
for Queen Winston-Larkin

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER**

The above-entitled matter came on for hearing before Administrative Law Judge Steve M. Mihalchick commencing at 9:30 a.m. on March 26, 1997 at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota. The hearing was held pursuant to a Revenue Recapture Act Notice of Hearing dated February 27, 1997. The record closed on March 26, 1997, at the end of the hearing.

Bonnie L. Williams, County Advocate, Economic Assistance - Adult Division, 400 South 5th Street, Minneapolis, MN 55415-1452 appeared on behalf of Hennepin County (County or Claimant Agency). Queen Winston-Larkin (Debtor) was not present at the hearing and no appearance was entered on her behalf.

**NOTICE**

This is a final decision. It is subject to judicial review as set forth in Minn. Stat. §§ 14.63 to 14.68 (1996). Any appeal must be filed with the Minnesota Court of Appeals and served upon the other party within thirty days of the receipt of this Order.

**STATEMENT OF ISSUES**

The issues in this case are whether the Debtor, Queen Winston-Larkin, owes a debt to the County for AFDC overpayments in the amount of \$1,325.00; and if so, whether the County may collect payment on the debts under the collection procedures set forth in the Revenue Recapture Act, Minn. Stat. §§ 270A.01-270A.12.

Based upon all of the files, records and proceedings herein, the Administrative Law Judge makes the following:

**FINDINGS OF FACT**

1. On February 28, 1997, a copy of the hearing notice was served upon the Debtor, Queen Winston-Larkin, at 1525 Humboldt Place North, Minneapolis, MN 55430 by first class mail.

2. The hearing notice contains a paragraph which states:

If you fail to appear at the hearing without prior authorization of the administrative law judge, you will be in default and any allegations in paragraph C above will be taken as true, without further evidence.

3. The Debtor made no appearance at the hearing, had no one appear on her behalf, and sought no prior authorization from the Administrative Law Judge to be absent from the hearing. The Debtor did not file a Notice of Appearance or request a continuance or any other relief.

4. The allegations made by the County in paragraph C read as follows:

On 1-3-97 Hennepin County sent Queen Winston-Larkin a notice that her account had been submitted to the Minnesota Department of Revenue. Further that a claim had been made against any refunds or lottery winnings to which she may be entitled as payment on a debt she owed the agency. This debt was the result of an AFDC overpayment claims established in 1995.

Overpayment Claim	Original Amount	Balance Due	Date Established
AFDC 241288	\$1,410	\$1,325	8-25-95

After the original AFDC overpayment claim was established, the agency mailed four (4) overpayment notices to Ms. Winston-Larkin. Each notice included information about the amount and basis of the claim and advised Ms. Winston-Larkin of her right to appeal the action to the State Appeals Office at the Minnesota Department of Human Services.

On 4-16-96 Ms. Winston-Larkin made a \$45 cash payment to the agency. Between April 25 and June 26, 1996, she paid the agency an additional \$18 (i.e. recoupments made from her AFDC grant). Ms. Winston-Larkin's AFDC case was closed effective 9-1-96. The County has received no subsequent payments.

At issue is whether the agency may collect this debt through setoff collection procedures under the Revenue Recapture Act. Ms. Winston-Larkin had indicated she would like to resume making payments to the agency effective March, 1997.

5. The Debtor executed a form on February 5, 1997, indicating she would repay the AFDC overpayment amount to the County with monthly payments. Exhibit 4. The County has declined to accept this plan. The form does not contain language prohibiting the use of revenue recapture to obtain payment on the debt.

6. The County's Notice contains a typographical error in paragraph C which erroneously identifies the recouped amounts as \$18. The actual amount recouped is \$40 and is accurately reflected in the balance due listed in paragraph C. Exhibit 1.

7. The Debtor requested a hearing regarding the amounts recaptured by letter, received by the County on February 10, 1997. Exhibit 3.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

### CONCLUSIONS

1. The Administrative Law Judge has authority to consider whether Hennepin County may collect amounts owed to it by Queen Winston-Larkin under the setoff collection procedures in the Revenue Recapture Act pursuant to Minn. Stat. § 270A.09, subd. 3 (1996).
2. The Debtor, Queen Winston-Larkin, received proper notice of the hearing and of the County's allegations, and the County has complied with all other relevant, substantive and procedural requirements of statute and rule.
3. Under Minn. Rules 1400.8560 (1996) the Debtor, Queen Winston-Larkin, is in default herein as a result of her failure to attend the hearing without the administrative law judge's prior consent.
4. Under Minn. Rules 1400.8560 (1996) the County's allegations against the Debtor may be taken as true as a result of her default.
5. The Debtor owes the County \$1,325.00 for AFDC overpayment established on August 25, 1995.
6. The amount the Debtor owes the County is a debt as defined in Minn. Stat. § 270A.03, subd. 5, and the debt meets the other requirements for submission set forth in Minn. Stat. § 270A.04, subd. 2 (1996).
7. The County's submission of Queen Winston-Larkin's debt for collection under the revenue recapture provisions of Minn. Stat. Chapter 270A was authorized and proper.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

### ORDER

IT IS HEREBY ORDERED that:

1. The Debtor's appeal from the County's collection under the Revenue Recapture Act of the AFDC overpayment should be and hereby is DENIED.
2. The Commissioner of Revenue shall forward any amounts recaptured from the Debtor's tax refund to Economic Assistance - Adult Division of Hennepin County.

Dated this 28th day of March, 1997.

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STEVE M. MIHALCHICK  
Administrative Law Judge

Reported: Default, One Tape