

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA HOUSING FINANCE AGENCY

In the Matter of Edward T. Hodges-
Revenue Recapture

**FINDINGS OF FACT,
CONCLUSIONS AND ORDER**

This matter was heard by Administrative Law Judge (ALJ) Richard C. Luis on May 19, 2010, at the Office of Administrative Hearings in St. Paul. Darryl J. Henchen, Assistant Attorney General, appeared on behalf of the Minnesota Housing Finance Agency (Agency, MHFA). There was no appearance by or on behalf of Edward T. Hodges (Respondent). The Evidentiary Hearing record closed on May 19, 2010, at the conclusion of the Hearing.

STATEMENT OF ISSUE

Whether it is appropriate to recover an outstanding loan amount, owing by Edward T. Hodges to the MHFA, through revenue recapture?

Based on the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. A Notice and Order for Hearing (Notice) in this matter was served on Edward T. Hodges by first class mail to his last known address on April 15, 2010. The Notice scheduled the Hearing in this matter for May 19, 2010, at 9:30 a.m. at the Office of Administrative Hearings in St. Paul.

2. In the Notice, MHFA alleged that Mr. Hodges was due and owing on a loan from the MHFA in the amount of \$4,390.27, as of April 14, 2010. The Notice alleged further that Mr. Hodges and Ceja Hodges (CEH) made required loan payments up to August 10, 2009, in the amount of \$79.81 on the 14th day of each month, but had failed to make any payments since that time. MHFA alleges that it is entitled to use revenue recapture to offset the amount owed by Mr. Hodges to MHFA.

3. The Notice and Order for Hearing provides, under Paragraph No. 1 of its "Additional Notice" section, as follows:

"The Respondent's failure to appear at the hearing...may result in a finding that the Respondent is in default, that the MHFA's allegations contained in this Notice and Order may be accepted as true, and its proposed action may be upheld."

4. The Respondent did not file a Notice of Appearance with the Office of Administrative Hearings, did not appear at the hearing, did not make a prehearing request for a continuance, request any other relief, or make any other contact with the ALJ or the Agency. The Respondent is, therefore, in default.

5. The allegations and issues set forth in the Notice of and Order for Hearing are incorporated herein by reference in their entirety.

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

CONCLUSIONS

1. The Administrative Law Judge has jurisdiction in this matter under Minn. Stat. § 270A.09.

2. The Minnesota Housing Finance Agency gave proper notice of the Hearing in this matter, and has complied with all procedural requirements.

3. Edward T. Hodges is in default under Minn. R. 1400.6000 as a result of his failure to appear at the Hearing.

4. Under Minn. R. 1400.6000, the allegations and the issues set out in the Notice and Order for Hearing may be taken as true or deemed proved without further evidence when a party defaults.

5. The allegations in the Notice establish that Edward T. Hodges is a “debtor” who owes a “debt” to a “Claimant Agency” (MHFA) within the meaning of the Minnesota Revenue Recapture Act.¹

6. It is appropriate for the MHFA to recover the outstanding loan amount owed to it by Edward T. Hodges through revenue recapture.

Based on the Conclusions, the Administrative Law Judge makes the following:

ORDER

IT IS ORDERED that the Minnesota Housing Finance Agency is entitled to use revenue recapture to offset the amount owed to it by Edward T. Hodges.

Dated this 15th day of June, 2010.

/s/ Richard C. Luis
RICHARD C. LUIS
Administrative Law Judge

Reported: Default

¹ Minn. Stat. § 270A.03.

NOTICE

Pursuant to Minn. Stat. § 207A.09, subd. 3, this Order is the final decision in this case. Any person aggrieved by this decision may seek judicial review pursuant to Minn. Stat. §§ 14.63 to 14.69.