

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF HEARINGS AND APPEALS

In the Matter of:

Wendy Elkin,

Petitioner

20-VH-0055-AG-034

721012513

January 6, 2021

ORDER OF DISMISSAL


24 C.F.R. § 26.4 (c) provides that “If a party refuses or fails to comply with an order of the hearing officer, including an order compelling discovery, the hearing officer may enter any appropriate order necessary to the disposition of the hearing *including a determination against the noncomplying party...*” (Emphasis added).

Petitioner herein filed a request for hearing on December 16, 2019. But Petitioner has failed to offer any evidence to refute the Secretary’s claim or to support Petitioner’s position that the proposed garnishment of the subject debt would cause financial hardship. The lapse of time since December 2019 has provided Petitioner with a number of opportunities to comply with the Court’s *Orders* on December 18, 2019, March 20, 2020, June 10, 2020 and September 17, 2020, to produce such necessary documentary evidence, but Petitioner has failed to do so. As a result, the Court is unable to determine the credibility of Petitioner’s claim of financial hardship in the absence of such evidence.

The second *Order to Show Cause* issued to Petitioner on September 17, 2020 by the Court again specifically stated, “**Failure to comply with this Order shall result in sanctions being imposed by the Court pursuant to 24 C.F.R. § 26.4 (c), including judgment being entered on behalf of the opposing party or dismissal of this action.**” (Emphasis in original). Consistent with the provisions of 24 C.F.R. §§ 26.4 (c), Petitioner’s appeal is **DISMISSED** *sua sponte*. Therefore, it is hereby

ORDERED that this matter be **DISMISSED WITH PREJUDICE** and the stay of proceeding issued on December 18, 2019 is VACATED.

SO ORDERED.



Vanessa L. Hall
Administrative Judge