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**STATE OF MINNESOTA
IN COURT OF APPEALS
A09-1916**

Vladimir A. Barkhudarov,
Appellant,

vs.

Dakota County CDA,
Respondent.

**Filed June 1, 2010
Affirmed
Willis, Judge***

Dakota County District Court
File No. 19AV-CV-09-2648

Vladimir A. Barkhudarov, Burnsville, Minnesota (pro se appellant)

Mary G. Dobbins, Landrum Dobbins LLC, Edina, Minnesota (for respondent)

Considered and decided by Lansing, Presiding Judge; Peterson, Judge; and Willis,
Judge.

UNPUBLISHED OPINION

WILLIS, Judge

In this dispute regarding Section 8 housing benefits, pro se appellant brought an action in conciliation court to challenge the community-development agency's decision

*Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

on remand from this court. The conciliation court ruled in favor of the agency, and appellant demanded removal to district court. Appellant now challenges the district court's dismissal of the case. Because appellant failed to file a timely request for a writ of certiorari, we affirm.

FACTS

Appellant Vladimir Barkhudarov receives Section 8 housing benefits that are administered by respondent Dakota County Community Development Agency (the CDA). *See* United States Housing Act of 1937 § 8, 42 U.S.C. § 1437f (2006) (providing for federally subsidized rental housing). Barkhudarov began to receive Section 8 benefits for his household in 2003. Federal law requires the CDA to recertify annually the family income of each household receiving Section 8 benefits. *See id.* §§ 1437f(o)(2)(A) (calculating assistance payment as a percentage of family income), (5)(A) (requiring administering authority to review family income upon “the initial provision of housing assistance for the family and thereafter not less than annually”). The CDA recertified the family income of Barkhudarov's household annually, and the recalculated benefit amounts went into effect on November 1, 2004; December 1, 2005; December 1, 2006; December 1, 2007; and December 1, 2008.

Barkhudarov disagreed with the 2004 and 2005 calculations of his family income, so he requested and received an informal review hearing. The hearing took place in January 2006, and the hearing officer upheld the CDA's calculations.

Barkhudarov then sued several employees of the CDA in Dakota County Conciliation Court, alleging that the CDA had miscalculated his family income. The

conciliation court dismissed the case on jurisdictional grounds. Barkhudarov filed a demand for removal to district court; the district court dismissed the case.

On appeal, this court affirmed the dismissal, stating: “Absent a timely request for a writ of certiorari from the hearing officer’s decision, the administrative determination is final, and a litigant may not seek a different result by starting a separate civil action that is essentially an attempt to obtain relief from the administrative decision.” *Barkhudarov v. Rensenbrink*, No. A06-1734, 2007 WL 2703049, at *2 (Minn. App. Sept. 18, 2007).

Nothing in the record shows that Barkhudarov requested administrative review of the recalculated benefit amount that went into effect on December 1, 2006. But Barkhudarov did challenge the recalculated benefit amount that went into effect on December 1, 2007. After an informal hearing, the hearing officer upheld the calculation. Barkhudarov appealed by writ of certiorari to this court, which reversed the CDA’s calculation of his family income to the extent that it included a special-diet allowance and remanded for the CDA to make findings and to exclude the allowance from Barkhudarov’s family income if the CDA determined that the funds were a special-diet allowance. *In re Gorokhova*, No. A08-271, 2009 WL 66643, at *2 (Minn. App. Jan. 13, 2009).

In early March 2009, Barkhudarov wrote to the CDA, requesting a refund of rent he had “overpaid” since November 2004. The CDA issued a \$748 refund to Barkhudarov. This refund appears to be the result of the CDA’s recalculation of Barkhudarov’s benefits for the months from December 1, 2007, through March 31, 2009.

In late March 2009, Barkhudarov again wrote to the CDA, requesting an additional \$1,212 for the period from November 1, 2004, through March 31, 2009. The CDA told Barkhudarov that it would not recalculate his benefits “for any time prior to the effective date of the calculation that was subject to [his] recent appeal to the Minnesota Court of Appeals”—that is, before December 1, 2007. The CDA scheduled an informal hearing regarding the recalculated benefit amount that went into effect on December 1, 2008. The record contains no further information about this hearing, which was scheduled to take place in May 2009.

In May 2009, Barkhudarov sued the CDA in conciliation court, seeking to recover \$1,200 for the years 2004 through 2009. Barkhudarov also requested fees and costs of \$100. After a hearing, the conciliation court entered judgment in favor of the CDA, and Barkhudarov filed a demand for removal to district court. After a hearing in September 2009, the district court dismissed the matter, stating that it lacked jurisdiction.

This appeal follows.

D E C I S I O N

The jurisdiction of courts is a question of law, which we review de novo. *Matsch v. Prairie Island Indian Cmty.*, 567 N.W.2d 276, 278 (Minn. App. 1997), *review denied* (Minn. Sept. 18, 1997).

The CDA erroneously included Barkhudarov’s special-diet allowance in its 2007 calculation of his family income. As a result, Barkhudarov paid a greater portion of his rent than he would have paid if the CDA had properly calculated his family income. In March 2009, the CDA recalculated Barkhudarov’s benefits for the months from

December 1, 2007, to March 31, 2009, and issued him a refund of \$748. Barkhudarov now challenges the adequacy of the refund. He contends that the 2004, 2005, 2006, 2007, and 2008 annual calculations of his benefits were all premised on family-income amounts that incorrectly included the special-diet allowance, thereby requiring the CDA to pay him the benefits he should have received since 2004.

The CDA is part of the executive branch of government. *See Tischer v. Hous. & Redev. Auth.*, 675 N.W.2d 361, 363 (Minn. App. 2004) (stating that a community-development agency is part of the executive branch), *aff'd*, 693 N.W.2d 426 (Minn. 2005). The exclusive remedy for challenging an executive body's discretionary exercise of its powers is a writ of certiorari. *Willis v. County of Sherburne*, 555 N.W.2d 277, 282 (Minn. 1996); *see also Carter v. Olmsted County Hous. & Redev. Auth.*, 574 N.W.2d 725, 729 (Minn. App. 1998) (stating that a community-development agency exercises its discretionary powers when it conducts a review hearing of a benefits determination). A writ of certiorari from this court must be requested within 60 days after a party's receipt of notice of an agency's adverse decision. Minn. Stat. § 606.01 (2008).

This is not the first time Barkhudarov has attempted to challenge the CDA's decisions by filing suit in conciliation court. In 2007, this court stressed to Barkhudarov that (1) the CDA's decisions become final unless he timely requests a writ of certiorari; and (2) he cannot "seek a different result by starting a separate civil action that is essentially an attempt to obtain relief from the administrative decision." *Barkhudarov*, 2007 WL 2703049, at *2.

Here, Barkhudarov challenges decisions made by the CDA in 2004, 2005, 2006, 2007, and 2008. But the only decision of the CDA that Barkhudarov properly appealed from is the 2007 calculation of his benefits. This court remanded the 2007 calculation to the CDA, which determined that Barkhudarov was entitled to a refund of \$748. Barkhudarov then brought this civil action to challenge the CDA's decision regarding the amount and scope of the refund. Barkhudarov did not request a writ of certiorari from this court, and the time for appeal has expired. Because Barkhudarov's exclusive remedy for challenging the CDA's decision on remand from this court was to make a timely request for a writ of certiorari, the district court properly determined that it was without jurisdiction in this matter.

Affirmed.