MISSOURI COURT OF APPEALS
WESTERN DISTRICT

WALDEN HOMEOWNERS ASSOCIATION,

Respondent,

v.

KEVIN SHAFINIA,

Appellant.

DOCKET NUMBER WD72647

Date: November 22, 2011

Appeal from:
Platte County Circuit Court
The Honorable James W. Van Amburg, Judge

Appellate Judges:
Division One: Alok Ahuja, P.J., Thomas H. Newton and James E. Welsh, JJ.

Attorneys:
Kevin Shafinia, Pro Se, Kansas City, MO, for appellant.
Rodney J. Hoffman, Kansas City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS -- WESTERN DISTRICT

WALDEN HOMEOWNERS ASSOCIATION

Respondent,

v.

KEVIN SHAFINIA,

Appellant.

WD72647 Platte County

Respondent Walden Homeowners Association filed the underlying lawsuit in the associate circuit division of the Circuit Court of Platte County on February 29, 2008. The petition alleged that appellant Kevin Shafinia had failed to pay homeowners association assessments and related fees. Following a bench trial, the associate circuit division entered a judgment against Shafinia on September 15, 2008.

Shafinia filed an application for trial *de novo* in the circuit court on September 22, 2008. Walden filed objections to Shafinia's application. It appears that Walden argued for dismissal of Shafinia's application on the ground that the case does not fall into any of the categories of cases in which a trial *de novo* is available under § 512.180.1, RSMo.

On June 18, 2010, the circuit court dismissed Shafinia's application for a trial *de novo*. Shafinia filed his notice of appeal on June 23, 2010, and designated the circuit court's judgment dismissing his application for a trial *de novo* as the judgment appealed from.

APPEAL DISMISSED.

Division One Holds:

Shafinia'ss appellate brief argues the merits of the underlying dispute over unpaid homeowners association assessment. He fails to challenge, however, the judgment of the circuit court, from which he actually appealed. That judgment did not address the merits, but dismissed Shafinia's application for a trial *de novo* on the basis of Walden's objections that a trial *de novo* was unavailable.

Because Shafinia's Brief does not address (or even acknowledge) the basis on which the circuit court ruled against him in its June 18, 2010 judgment, he has failed to show any grounds for reversal of the circuit court's judgment, requiring dismissal of his appeal.

To the extent that Shafinia now acknowledges that no trial *de novo* was available, and seeks instead to directly appeal the Associate Circuit Division's judgment to this Court, his appeal would still be subject to dismissal. Under § 512.180.2, where a trial *de novo* is unavailable, the party aggrieved by the judgment of the associate circuit division must appeal directly to this Court in the same manner as in other civil cases. Under Rule 81.05(a)(1), the associate circuit division's judgment became final 30 days after its entry, and Rule 81.04(a) required that Shafinia file a notice of appeal ten days thereafter. The associate circuit division entered its judgment on September 15, 2008. Shafinia did not file his notice of appeal until June 23, 2010, however. Therefore, to the extent Shafinia was seeking to appeal directly from the judgment entered by the associate circuit division, his notice of appeal was untimely, and we would still be required to dismiss because of a lack of appellate jurisdiction.

Before: Division One: Alok Ahuja, P.J., Thomas H. Newton and James E. Welsh, JJ.

Opinion by: Alok Ahuja, Judge **November 22, 2011**

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.