



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DISMISSED FOR LACK OF JURISDICTION: October 29, 2021

CBCA 7182

JOSEPH-ALLEN DAVIS,

Appellant,

v.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,

Respondent.

Joseph-allen Davis, pro se, Canton, OH.

Julie K. Cannatti, Jose Montalvo-Rodriguez, and Justin D. Haselden, Office of General Counsel, Department of Housing and Urban Development, Washington, DC, counsel for Respondent.

Before Board Judges **RUSSELL**, **ZISCHKAU**, and **CHADWICK**.

ZISCHKAU, Board Judge.

Appellant, Joseph-allen Davis, appeals an eviction ordered by the Canton Municipal Court of Stark County, Ohio, claiming the eviction was invalid and that he is entitled to compensation from the Department of Housing and Urban Development (HUD). Because appellant has not alleged he had a contract with HUD, filed no claim under the Contract Disputes Act (CDA), 41 U.S.C. §§ 7101–7109 (2018), and did not appeal from a final decision of a HUD contracting officer, we dismiss this appeal for lack of jurisdiction.

Background

According to the record of court proceedings in the Canton Municipal Court, it appears that appellant was a non-tenant, non-resident trespasser who had been staying at a property in Stark County, Ohio, for some months. The owner brought an action to evict appellant. A magistrate in the municipal court determined that appellant had no legal right to occupy the premises. A judge of the municipal court sustained the magistrate's determination. After appellant was evicted, he challenged the decision before various state and federal entities and tribunals, including the Ohio HUD Field Office Director and HUD Inspector General, claiming his eviction was unlawful. The municipal court denied appellant's requests to overturn his eviction.

On July 19, 2021, appellant filed an appeal of the municipal court decision with us. In the appeal, he states that (1) there was no contract between him and anyone else, (2) the municipal court committed various errors, (3) HUD regulations were wrongly enforced against him, (4) he was denied a hearing, (5) he was denied certain constitutional rights, (6) the municipal court proceedings against him are void, and (7) he is entitled to compensation for the damages he has sustained. On August 25, 2021, we issued an order to show cause why the appeal should not be dismissed for lack of jurisdiction, noting that the record did not contain any underlying CDA claim submitted by appellant to a contracting officer of respondent, nor any final decision by a contracting officer of respondent. Appellant responded to the order to show cause, arguing that the municipal court action was undertaken on behalf of the Federal Government, that there is an implied contract between agents of Stark County and HUD based on the county's receipt of federal funding, and that his claim arises under this implied contract. Respondent contends that appellant has failed to meet the jurisdictional requirements of the CDA because he is neither a contractor nor has he submitted a written claim to a HUD contracting officer for a final decision.

Discussion

The CDA confers upon this Board jurisdiction to adjudicate claims arising from express or implied contracts entered into by executive agencies for the procurement of services and property, other than real property; the procurement of construction, alteration, repair, or maintenance of real property; or the disposal of personal property. 41 U.S.C. § 7102(a). To establish jurisdiction, appellant must, among other things, non-frivolously allege the existence of a contract subject to the CDA, *Vanguard Business Solutions v. Department of State*, CBCA 6951, 21-1 BCA ¶ 37,838, and that appellant is a contractor as defined in the CDA, *Kristin Allred v. Department of Veterans Affairs*, CBCA 4952, 15-1 BCA ¶ 36,108. A contractor is a "party to a Federal Government contract other than the Federal Government." 41 U.S.C. § 7101(7). The Board lacks jurisdiction if the facts as alleged show appellant neither entered into nor was a party to a procurement contract with

HUD. *See BPI Management Inc. v. Department of Housing & Urban Development*, CBCA 1894, 10-2 BCA ¶ 34,495. CDA jurisdiction is limited to contractors and those in privity of contract with the Federal Government. *See Lockheed Martin Aspen Med Services, Inc. v. Department of Health & Human Services*, CBCA 2054, 11-1 BCA ¶ 34,624 (2010).

Appellant has failed to allege that he is a contractor under a procurement contract with HUD. In addition, he has not shown that he filed a CDA claim with a HUD contracting officer, and thus it follows that there is no indication in the record of a contracting officer final decision or deemed denial relating to such a claim. We need not address appellant's argument that there was an implied contract between Stark County officials and HUD as that assertion is irrelevant. *See Bass Transportation Services, LLC v. Department of Veterans Affairs*, CBCA 4995, 16-1 BCA ¶ 36,464 (our jurisdiction under the CDA exists "only after a claim is presented to the contracting officer and is either decided or deemed denied, and the contractor files a timely appeal").

Decision

The appeal is **DISMISSED FOR LACK OF JURISDICTION**.

Jonathan D. Zischkau
JONATHAN D. ZISCHKAU
Board Judge

We concur:

Beverly M. Russell
BEVERLY M. RUSSELL
Board Judge

Kyle Chadwick
KYLE CHADWICK
Board Judge