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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 9-463 / 89-99

IN RE THE MARRIAGE OF CHRIS ELLEN HANKENSON AND RICHARD RALPH HANKENSON

Upon the Petition of
CHRIS ELLEN HANKENSON,

Appellant,

and Concerning
RICHARD RALPH HANKENSON,

Appellee.

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Appeal from the Iowa District Court for Polk County, Richard A. Strickler, Judge.

Appellant appeals the decision of the district court dismissing her application for a rule to show cause and to cite respondent for contempt. **AFFIRMED.**

Michael J. Galligan and Dennis P. Ogden of Galligan & Conlin, P.C., Des Moines, for appellant.

David L. Charles of Gamble, Riepe, Webster, Davis & Green, Des Moines, for appellee.

Heard by Donielson, P.J., and Sackett and Habhab, JJ.

HABHAB, J.

Chris Ellen Hankenson appeals the decision of the district court dismissing her application for a rule to show cause and to cite respondent for contempt. The sole issue presented in this appeal is whether the district court erred in its interpretation of a provision of the dissolution decree which terminated child support payments upon the occurrence of certain circumstances. We affirm.

The parties' marriage terminated on February 8, 1985. Their dissolution decree incorporated a stipulation which included the following child support provision:

> Respondent agrees to pay child support . . . in the sum of $800.00 per month per child . . . until the child has reached 18 unless on that date, the child is enrolled in high school . . . ; however, child support shall cease and no longer be payable if a child marries, becomes self supporting, moves out of the Petitioner's residence or voluntarily leaves high school without graduating after the child's eighteenth birthday.

At the time the parties divorced they had five children and considerable property. Chris received a $100,000 cash settlement, alimony of $3,800 per month or $45,600 per year, two automobiles, most of the personal property, and the family home. She was obligated to pay the home's mortgage which required monthly payments of $611.50.

Richard, a medical doctor, retained his pension plan, life insurance, various stocks, and other real and personal property.

The parties stipulated to joint legal custody of their five minor children, with physical custody being placed with the wife. Richard received visitation.

On November 19, 1985, Abby, the parties' oldest daughter, removed her clothing and miscellaneous personal property from Chris's residence and moved into Richard's home. She stayed with Richard continuously until April of 1987. During this period, Richard ceased child support payments for Abby. On September 4, 1987, Chris filed the instant application to hold Richard in contempt for failure to make child support payments for Abby.

In April of 1988, Abby again moved into Richard's residence. In June of 1988, Stephanie, another of the parties' daughters, moved into Richard's home. Both Stephanie and Abby remained there continuously through the date of the contempt hearing, January 10, 1989.

At the contempt hearing, the parties stipulated that Abby informed both of her parents in November of 1985 that the move from Chris's residence to Richard's home was permanent. It was further stipulated that Abby took all of her clothes and miscellaneous personal property with her.

In reviewing the record the district court concluded that Richard was not in contempt because the parties decree automatically relieved him of paying child support for the periods of time that the two children had moved out of the wife's residence.

Our scope of review is de novo. Iowa R. App. P. 4. In construing a dissolution decree, we are guided by certain tenets. "When the stipulation is merged in the dissolution decree it is interpreted and enforced as a final judgment of the court, not as a separate contract between the parties." Prochelo v. Prochelo, 346 N.W.2d 527, 529 (Iowa 1984). A dissolution decree is construed in the same manner as any other written instrument. In re Marriage of Lawson, 409 N.W.2d 181, 182 (Iowa 1987).

Under the terms of the stipulation and dissolution decree, Richard is obligated to pay child support to Chris in the sum of $800 per child per month. It also contains the following clause: "[C]hild support shall cease and no longer be payable if a child marries, becomes self-supporting, moves out of the Petitioner's residence or voluntarily leaves high school without graduating after the child's eighteenth birthday."

The use of the conjunctive "or" between the third and fourth conditions clearly indicates a separate and distinct circumstance. One authority defines the use of the word "or" in this manner, "introducing any of the possibilities in a series, but usually used only before the last." Webster's New World Dictionary 999 (2nd ed. 1976).

We read the clause in dispute, as did the trial court, to automatically terminate Richard's obligation to pay child support for an individual child upon the occurrence of any

one of four circumstances: (1) if a child marries; (2) if a child becomes self supporting; (3) if a child moves out of Petitioner's residence; or (4) if a child leaves high school without graduating after the child's eighteenth birthday.

Additionally, we do not believe such an interpretation to be violative of the permanency of the dissolution decree's child support award. Each of the aforementioned circumstances is of a relative permanent nature. A child does not "move out" of a custodial parent's house when the child has visitation with the noncustodial parent. Here, Abby removed her clothing and other personal property from Chris's home when she moved to her father's residence. She then resided there continuously for seventeen months. We hasten to point out that this case does not involve a factual situation where the child is moving between parents on a monthly or bimonthly basis with no intention that the move be of a permanent nature.

We affirm the decision of the trial court. The costs of this appeal are assessed to appellant.

AFFIRMED.