FILED
SEP 2 8 1988
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

MARGIE SUE HAMILTON, a/k/a **MARGIE SUE SOBOTKA**,	)	
Plaintiff-Appellant,	)	118
vs.	)	
FIRST BAPTIST ELDERLY HOUSING FOUNDATION, d/b/a **ELSIE MASON MANOR**,	)	8-70 87-369
Defendant-Appellee.	)	

Appeal from the Iowa District Court for Polk County (No. CL 55-32368), A. M. Critelli, Judge.

Plaintiff appeals from the decision of the trial court dismissing her action. **AFFIRMED BY OPERATION OF LAW.**

Jerry R. Foxhoven of Foxhoven & McCann, Des Moines, for plaintiff-appellant.

Diane M. Stahle and Patricia A. Shoff of Davis, Hockenberg, Wine, Brown, Koehn & Shors, Des Moines, for defendant-appellee.

Heard by Schlegel, P.J., and Sackett and Habhab, JJ., but considered en banc.

PER CURIAM.

The court being equally divided, the judgment is affirmed by operation of law. Iowa Code § 602.5106(1) (1987).

AFFIRMED.

For affirmance: Donielson, Hayden, and Habhab, JJ.

For reversal: Oxberger, C.J., and Schlegel and Sackett, JJ.