FILED
OCT 25 1983
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN THE MATTER OF THE TERMINATION OF THE CONTINUING CONTRACT OF MARGARET BISHOP

201

MARGARET BISHOP,

Petitioner-Appellant,

vs.

EASTERN ALLAMAKEE COMMUNITY SCHOOL DISTRICT,

Respondent-Appellee.

Filed October 25, 1983

3-201
2-69459

Appeal from Allamakee District Court, L. D. Lybbert, Judge.

Petitioner-teacher appeals trial court's ruling sustaining respondent school district's special appearance and dismissing on timeliness grounds petitioner's judicial review petition challenging the termination of her teaching contract.

James Burns of Miller, Pearson, Gloe, Burns & Beatty, P.C., Decorah, for petitioner-appellant.

Richard T. Heiderscheit, Lansing, for respondent-appellee.

Heard by Oxberger, C.J., and Donielson, Snell, Schlegel, Hayden, and Hackett, JJ.

PER CURIAM

The school board of the respondent Eastern Allamakee Community School District terminated the teaching contract of petitioner, Margaret Bishop. Bishop appealed to an adjudicator, who affirmed the termination in a decision dated and mailed on August 11, 1982. Bishop orally notified the school board secretary on August 18 and 20, 1982, that she rejected the adjudicator's decision; however, Bishop did not, within ten days of the adjudicator's decision, give the board's secretary written notice of her rejection of that decision. Bishop subsequently filed a notice of appeal to the district court on September 3, 1982, which was within the thirty days allowed for filing such an appeal, pursuant to Iowa Code section 279.18.

Respondent school district subsequently filed a special appearance, asserting that the district court lacked jurisdiction over the matter because Bishop had failed to comply with the ten-day, written notice provision of section 279.17. Bishop filed a resistance to the special appearance, raising the issues raised herein.

On October 29, 1982, trial court sustained the special appearance and dismissed Bishop's action. The trial court relied on the wording of section 279.17 and the Iowa Supreme Court's decision in Wollenzien v. Board of Education of Manson Community School District, 279 N.W.2d 215 (Iowa 1980).

On appeal petitioner asserts that: (1) she substantially complied with the ten-day notice requirement of Iowa Code section 279.17 by orally informing the school board secretary of her rejection of the adjudicator's decision; (2) the Iowa Supreme Court's decision in Wollenzien, that the ten-day notice provision of section 279.17 is jurisdictional regarding judicial review to the district court, should be overruled as being unconscionable and contrary to legislative intent, statutory interpretation, and sound public policy; and (3) the ten-day notice

provision of section 279.17, as interpreted by this court in Wollenzien, violates petitioner's constitutional rights to due process and equal protection.

In Wollenzien, the supreme court held that section 279.17 "means what it says" and that a teacher's failure to notify the board's secretary of her rejection of the adjudicator's decision within ten days of the date of that decision precluded further appeal. By requiring the notice to be in writing, the legislature anticipated evidentiary disputes regarding whether a teacher orally notified a secretary within the ten-day period. A written notice is easier to verify than personal recollections of what was said and when it was said. The requirement that the notice be in writing is not unreasonable; Bishop's oral notification was inadequate. Cf. Ferree v. Board of Educ., _____ N.W.2d _____ (Iowa 1983)(compliance with grievance procedures in employment contract was prerequisite for jurisdiction).

Petitioner's appeal was properly dismissed by the district court.

AFFIRMED.