FILED
JAN 25 1979
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

LINDA SHEERAN,	)	
Appellant,	)	Filed January 25, 1979
vs.	)	
LEWIS CENTRAL COMMUNITY SCHOOL DISTRICT,	)	775 2-61761
Appellee.	)	

Appeal from Pottawattamie District Court - Harold L. Martin, Judge.

Plaintiff appeals dismissal of petition for declaratory judgment to have her teacher's contract construed as valid and enforceable. - Reversed and remanded.

James L. Sayre, of Dreher, Wilson, Adams & Jensen, Des Moines, for Appellant.

Jack W. Peters, of Johnson, Stuart, Tinley, Peters & Thorn, of Council Bluffs, for Appellee.

Heard by Oxberger, C. J., and Snell, Carter and Johnson, JJ. Donielson, J., takes no part.

PER CURIAM

Plaintiff Linda Sheeran appeals trial court decree dismissing her petition for declaratory judgment against defendant school district. We reverse.

In a pretrial motion, defendant attempted to have this case transferred from equity to the law docket, but this motion was overruled. Defendant has not appealed from that ruling. We treat the instant action as one in equity. See Moravek v. Davenport Community School District, 262 N.W.2d 797, 798 (Iowa 1978). Our review is therefore de novo. Rule 4, Rules of Appellate Procedure.

Trial court held, inter alia, that the parties' contract of April 14, 1975, was null and void because of the failure of occurrence of a condition precedent - plaintiff's completion of six hours of college credit in courses approved by the school principal prior to commencement of the 1975-76 academic year. Plaintiff, however, was fired by defendant in May, 1975. Under the circumstances, it was impossible for her to comply with the condition precedent due to defendant's act of terminating her employment. Plaintiff could not have secured the school principal's approval of certain summer school courses at a time when the school system no longer considered her one of its employees. "It is a principle of fundamental justice that if a promisor is himself the cause of the failure of performance, either of an obligation due him or of a condition upon which his own liability depends, he cannot take advantage of the failure." 5 S. Williston, Contracts § 677 (3d ed. 1961). In such a situation, the condition is discharged or excused.

We find, therefore, that the parties' contract of April 14, 1975, is valid and enforceable. Under § 279.13, The Code, a valid teacher's contract remains in force and effect for the period stated therein and is thereafter automatically continued in force and effect for equivalent periods (in the absence of circumstances not pertinent hereto).

With respect to contracts, if any, between the parties for school years beginning after the filing of this opinion, the additional educational requirements contained in the April 14, 1975 contract may be included at the option of the

defendant school district, if not previously satisfied by plaintiff.

We reverse trial court's judgment and remand the case for entry of a declaratory judgment consistent with this opinion.

REVERSED AND REMANDED.