

IN THE COURT OF APPEALS OF IOWA

FOREST CITY COMMUNITY)
SCHOOL DISTRICT,)

Petitioner-Appellee,)

vs.)

BONITA KRIZ,)

Respondent-Appellant.)

Filed September 30, 1987

7-166
86-1084

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Appeal from the Iowa District Court for Winnebago County (No. 13594),
J. W. Frye, Judge.

A teacher appeals from a district court decision upholding the termination
of her employment contract. **REVERSED.**

Linda G. Hansen and James L. Sayre of Sayre & Gribble, Des Moines,
for the respondent-appellant.

Robert P. Cooper of Cooper, Sinnard & Cooper, Forest City, for
petitioner-appellee.

Heard by Oxberger, C.J., and Donielson and Hayden, JJ.

OXBERGER, C.J.

In this appeal, Bonita Kriz challenges the judgment upholding the termination of her employment contract. She raises three issues: (1) that the school board (Board) did not show by a preponderance of evidence that a staff reduction was necessary; (2) that the decision to terminate a staff position was made in violation of Board policy; and (3) that the Board's decision to terminate her position was unreasonable, arbitrary or capricious, or characterized by an abuse of discretion. We reverse.

On February 28, 1985, Kriz received notice pursuant to Iowa Code § 279.15 that her position was being recommended for termination. The reason enumerated in the notice was: "Fiscal constraints within the budget require a change in program and personnel." A private hearing was held and the Board adopted the recommendation of the superintendent and found "just cause" to terminate Kriz's position. This decision was reversed by the adjudicator because it was unsupported by a preponderance of the evidence, was arbitrary and capricious, and made in violation of Board policy. The district court reversed the adjudicator's decision finding the problems of declining cash balances and enrollment justified the staff reduction.

The procedures to be employed in the termination of teacher contracts are contained in Iowa Code ch. 279; see Fay v. Board of Directors of North-Linn Community School District, 298 N.W.2d 345, 347 (Iowa App. 1980). Judicial review of such proceedings is provided for in § 279.18 which states in part as follows:

The court shall reverse, modify or grant any other appropriate relief from the board decision or the adjudicator's decision equitable or legal and including declaratory relief if substantial rights of the petitioner have been prejudiced because the action is:

1. In violation of constitutional or statutory provisions; or
2. In excess of the statutory authority of the board or the adjudicator; or
3. In violation of a board rule or policy or contract; or
4. Made upon unlawful procedure; or
5. Affected by other error of law; or
6. Unsupported by a preponderance of the competent evidence in the record made before the board and the adjudicator when that record is viewed as a whole; or
7. Unreasonable, arbitrary or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion.

In reviewing the decision of the district court, we are limited to the correction of errors under the standards set forth above in Iowa Code § 279.18. Olds v. Board of Education of Nashua Community School District, 334 N.W.2d 765, 768 (Iowa App. 1983). "If our conclusion is the same as that of the district court, we affirm; if it is not, reversal may be in order." Id.

Because we find it dispositive of the merits of this appeal, we only find it necessary to address Kriz's second assignment of error. The Forest City Community School District Staff Reduction Policy 403.4 states in part:

A. Staff reduction may occur when:

1. There is substantial loss or shifting of enrollment. (A pupil-teacher ratio of 20:1 is desirable and should be maintained if possible).
2. A major change in curriculum may necessitate in the loss of a teacher who specializes in an area no longer in the curriculum or when a teacher does not meet certification requirements for expanding a particular subject matter area.
3. There is a financial loss on the part of the school which makes it impossible for the school board to pay the salaries of the staff under contract.

Kriz argues that 403.4(A)(3) was violated because the Board failed to show it was "impossible" to pay staff salaries. The Board argues it was acting as a "prudent manager" and that to require a showing of "impossibility" would effectively tie the hands of school boards across the state.

It is clear that fiscal and budgetary constraints constitute "just cause" for a staff reduction. Smith v. Bd. of Directors of Hinton Comm. School Dist., 282 N.W.2d 740 (Iowa 1979). It is also clear, however, that strict adherence to the terms of a policy, master contract, or collective bargaining agreement is necessary. AR-WE-VA Comm. School Dist. v. Long, 292 N.W.2d 402, 405 (Iowa 1980) (violation of master contract warranted reinstatement); Sac City Bd. of Educ. v. Schermerhorn, 340 N.W.2d 789, 792 (Iowa App. 1983) (failure to apply all criteria was a violation of the staff reduction policy and required reinstatement).

In this case the staff reduction policy, which was revised in April 1984, states there must be a financial loss "which makes it impossible for the school board to pay the salaries of the staff under contract." The record shows the school district had a \$300,000.00 decline in their cash reserve balance over a three-year period. The decline resulted from a combination of factors: increased deficit spending, delayed state aid payments, low investment income, overspending on special education programs, and late payment of property taxes. The school district was scheduled to receive \$156,000.00 in "new money" for the 1985-86 school year of which \$91,000.00 would go to staff salary increases. The following colloquy also took place:

Q. Let me ask you this question, Superintendent Hintz. Do you have enough money, does the board have enough money, does this school district have enough money to pay the salaries of the teachers on contract?
A. This year?

Q. Yes. Or for next year? A. Yes.

Q. Could they pay those salaries if both of these teachers were rehired?
A. Yes.

Q. Therefore it stands to reason that they could pay those salaries if those two teachers were not rehired? A. Yes.

Q. It would be less? A. Yes.

Q. They have enough money to pay? A. Yes.

We've never--I've never said to the board that they had a problem that next year if they make no decision, that the roof would cave in. Our problem, we projected, was two to three years down the road.

We think the evidence shows that, while the school district was experiencing a decline in its cash reserve balance, they were still able to pay the salaries of their staff. In fact, Superintendent Hintz admitted the district had enough money to pay the salaries and that the problem was two or three years down the road. We do not feel the Board showed the financial loss made it impossible for the salaries to be paid. This is a violation of their staff reduction policy and requires a reinstatement of Kriz's contract.

We do not mean to say that a school board must always show an inability to pay its staff before a reduction can be made. We only say that a school district must strictly adhere to the policy it has adopted. The school board in this case drafted and adopted this particular language and we feel they should be bound by it. Teacher tenure is too important to allow school boards to disregard the staff reduction policies they have adopted and which teachers rely upon for an objective determination of when reductions will be made. We, therefore, hold that the Forest City School Board violated its Staff Reduction Policy 403.4(A)(3).

We now address the Board's argument that a staff reduction was proper under 403.4(A)(1) which allows for a reduction based on declining or shifting enrollment. Kriz argues the Board may not rely on 403.4(A)(1) since declining enrollment was not enumerated as a reason for her termination.

Iowa Code section 279.16 states "The evidence at the private hearing shall be limited to the specific reasons stated in the Superintendent's notice and recommendation." The Iowa courts have upheld this rule and limit a board's

decision to the reasons stated in the notice. Munger v. Jesup Comm. School Dist., 325 N.W.2d 377, 379 (Iowa 1982); Bd. of Educ. of Fort Madison Comm. School Dist. v. Youel, 282 N.W.2d 677, 680 (Iowa 1979). Also, in construing the teacher tenure statutes, school boards are given reasonable flexibility, but not enough flexibility to evade the tenure laws. Fitzgerald v. Saydel Consol. School Dist., 345 N.W.2d 101, 106 (Iowa 1984).

We believe the above precedents dictate strict compliance with the tenure laws. A superintendent is free to specify as many grounds as desired in a termination notice, but to allow additional grounds after notice is given would provide school boards with a device they could use to evade the statutes. We, therefore, conclude that the Board was not able to rely on declining enrollment and 403.4(A)(1) as a basis for reduction since it was not specified in Kriz's termination notice.

Because the Board violated its staff reduction policy in its decision to terminate Kriz's contract, her contract must be reinstated. Because of our resolution of this issue, we need not and do not consider the other issues raised by Kriz. The district court's ruling is reversed and the adjudicator's order is affirmed.

REVERSED.