

IN THE SUPREME COURT OF THE STATE OF NEVADA

CLARK COUNTY EDUCATION
ASSOCIATION, A PUBLIC
EMPLOYEE ORGANIZATION; AND
ANNALEE JAGER, AN INDIVIDUAL,
Appellants,

vs.

CLARK COUNTY SCHOOL
DISTRICT, A COUNTY SCHOOL
DISTRICT,
Respondent.

No. 52717

FILED

SEP 28 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is an appeal from a district court summary judgment in an employment action. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

Appellant Annalee Jager's employment as a school teacher for respondent Clark County School District was terminated following an incident that culminated in Jager being issued an NRS 391.313 admonition. Jager subsequently filed suit against the School District and the district court granted a motion for summary judgment in the School District's favor. This appeal followed.

Having reviewed the parties' briefs and the record on appeal, we conclude that the district court erred in granting summary judgment because genuine issues of material fact remain regarding a critical aspect


of this litigation. Wood v. Safeway, Inc., 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005) (stating that summary judgment is not appropriate when genuine issues of material fact exist). Specifically, no factual findings have been made regarding what actually happened during the incident resulting in the admonition, even though Jager's appellate briefing indicates that she contests the version of events set forth in the admonition. Without this factual determination, it is impossible for this court to fully evaluate the propriety of Jager's termination. As a result, we conclude that because genuine issues of material fact remain regarding the incident that led to Jager's termination, the district court's grant of summary judgment in favor of the School District must be reversed and this matter must be remanded to the district court for the court to make factual findings on this issue. Id.

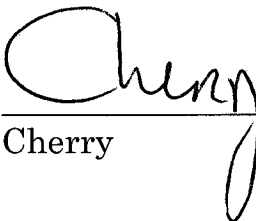
Additionally, our review of the collective bargaining agreement contained in the record on appeal and the relevant caselaw indicates that there is a serious question as to whether this case was even properly brought in the district court before the parties had fully arbitrated this matter. See Clark County School Dist. v. Riley, 116 Nev. 1143, 1147-48, 14 P.3d 22, 24-25 (2000) (addressing whether a public school teacher's termination pursuant to NRS Chapter 391 was properly before the court and explaining that arbitration would be required before the court provides review for such a dispute if the parties operated under a collective bargaining agreement that restricted the resolution of statutory grievances to arbitration). The parties have failed to adequately address this issue, even upon questioning during oral argument. Accordingly, before conducting any further proceedings in this matter on remand, the


district court shall determine whether, under Riley, the parties were required to complete the arbitration process before bringing this dispute to the district court.

Accordingly, for the reasons set forth above, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.


_____, J.
Saitta


_____, J.
Cherry


_____, J.
Gibbons

cc: Hon. Michael Villani, District Judge
Carolyn Worrell, Settlement Judge
Dyer, Lawrence, Penrose, Flaherty & Donaldson
Clark County School District Legal Department
Eighth District Court Clerk