STATE OF MINNESOTA
IN COURT OF APPEALS
A07-0774

Joyce E. Adams, et al.,
Respondents,

vs.

Independent School District No. 316,
defendant and third party plaintiff,
Appellant,

vs.

Education Minnesota-Greenway Local #1330,
third party defendant,
Respondent.

Filed July 1, 2008
Affirmed
Hudson, Judge

Itasca County District Court
File No. 31-CV-06-1474

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Considered and decided by Toussaint, Presiding Judge; Hudson, Judge; and Schellhas, Judge.

U N P U B L I S H E D O P I N I O N

HUDSON, Judge

Appellant school district challenges the district court's summary judgment in favor of retired-teacher respondents (retirees), concluding that they had a vested right to healthcare benefits provided in the collective-bargaining agreements (CBAs) in effect when they retired; and dismissing on the pleadings appellant's third-party claim against respondent union, which negotiated the CBAs. Because the district court did not err (1) by applying *Housing and Redevelopment Authority of Chisholm v. Norman*, 696 N.W.2d 329 (Minn. 2005) to determine that benefits vested under the terms of the CBAs, and (2) by determining that respondents were not required to arbitrate their claim, we affirm summary judgment in favor of retirees. We also affirm the district court's dismissal of the union as a third-party defendant.

FACTS

The retired-teacher respondents (retirees) are 67 teachers who retired between 1988 and 2005 from their employment with appellant Independent School District No. 316. Until their retirement, retirees were members of respondent Education-Minnesota-Greenway Local No. 1330 (Local 1330). In April 2006, retirees sued appellant, claiming vested rights in the specific retirement healthcare benefits provided in the particular collective-bargaining agreements (CBAs) that were in effect at the time of their respective retirements. Appellant asserted as a defense that the retirees' healthcare benefits were terms and conditions of employment, which changed each time a new CBA was negotiated and ratified, and claimed that retirees were required to submit any

grievance under the CBAs to binding arbitration. Appellant also impleaded Local 1330, alleging that Local 1330 should share in the cost of any judgment awarded to respondents because, as retirees' exclusive bargaining representative, Local 1330 negotiated and ratified any changes to retirees' healthcare benefits. Retirees and appellant both moved for summary judgment. Local 1330 also moved for judgment on the pleadings or, in the alternative, for summary judgment, asserting that the third-party complaint failed to state a cause of action on which relief could be granted and that Local 1330 was not a proper party.

Over a number of years, appellant and Local 1330, on behalf of teachers in the bargaining unit, negotiated a series of two-year collective-bargaining agreements (CBAs), which included healthcare benefits both for active teachers and for retired teachers. For active teachers, the CBAs provided that appellant would pay a specified percent of the premium payments for health-insurance coverage, which was designated in the CBAs for the periods 1987-2003 as group insurance within the Arrowhead Pro-Care plan provided by Blue Cross and Blue Shield, or its equivalent. For retired and disabled teachers, the CBAs for the periods 1987-2005 provided:

> A. All teachers who retire on or after July 1, 1966, and who have reached a retirement age acceptable to the Teacher's Retirement Association or Federal Social Security and all teachers who become totally and permanently disabled on or after July, 1966, shall continue to be insured on the *then existing* hospital and medical insurance programs covering teachers of [appellant] except that if the retiree is eligible for Federal Medicare, he/she shall be covered by the existing supplemental medical plans. This does not include the dental plan.

(Emphasis added.) The 1999-2001 and 2001-2003 CBAs also provided that a teacher who retired after January 2000 would pay for some doctor visits and some prescription drug copayments.

The CBAs covering the periods from 1987-2003 provided that appellant "shall pay the full single subscriber rate and 50% of the dependency costs" for coverage for retired teachers. But by its terms, the 2003-2005 CBA changed this coverage to provide that appellant would pay only 80% of the single-subscriber rate for retired-teacher health coverage, and the retired teacher would pay the other 20%. Thus, after the effective date of the 2003 CBA, appellant did not pay the full single-subscriber rate for retirees' health-insurance premiums, and retirees were required to pay 20% of the premium for single-subscriber coverage.

In 2005, appellant discovered a series of accounting errors, which resulted in overestimated district enrollment and revenue and underestimated expenditures. As a result, the Minnesota Department of Education revised appellant's statutory-operating-debt (SOD) plan and extended it for three years. The revised SOD plan provided for a zero percent salary schedule improvement for active employees from 2005-2007, health-insurance concessions, and the passage of an excess operating levy. The department indicated that if progress was not made on the SOD, appellant would need to consider options such as consolidation with another school district.

In order to reduce costs, the 2005-2007 CBA, which was signed in January 2006, no longer provided benefits to retired teachers under a "then-existing" health-insurance

plan or "existing supplemental medical plans." Instead, the CBA provided that retired teachers

> shall continue to be insured during 2005-2006 under the Arrowhead Pro-Care Blue Cross and Blue Shield Revised Plan 4 policy to become effective as soon as possible, but no later than March 1, 2006, covering teachers of Independent School District No. 316, except that if the retiree is eligible at age 65 for Federal Medicare, he/she shall be covered by the Arrowhead Pro-Care Senior Gold policy, except those under the Greenway 403B.

The CBA provided that for retired teachers under age 65, appellant would provide the same coverage specified to apply to active teachers: that is, group coverage under a new, high-deductible plan, Arrowhead Pro-Care Blue Cross and Blue Shield Revised Plan 4, with appellant paying 80% of the premium, and the retired teacher paying 20%. For a retired teacher's dependent under 65, appellant would pay 50% of the dependency cost, and the retired teacher would pay 50%. For retirees and their dependents over 65, appellant would pay 100% of the Arrowhead Pro-Care Senior Gold policy, a supplemental Medicare policy with no prescription-drug benefits, up to $152 per month. The language providing coverage for prescription drugs and doctor payments in previous CBAs was eliminated. Thus, after the effective date of the 2005-2007 CBA, appellant did not pay for prescription-drug coverage for retirees.

The district court granted summary judgment for retirees, concluding that they were not required to submit to binding arbitration and that their retirement healthcare

benefits vested when they retired, under the terms of the CBAs effective at that time.[1] The district court also concluded that the third-party complaint failed to state a claim on which relief could be granted because retirees' healthcare benefits vested when they retired and, after that time, Local 1330 no longer represented them in CBA negotiations. The court accordingly dismissed Local 1330 from the action. This appeal follows.

D E C I S I O N

I

Appellant challenges the district court's grant of summary judgment concluding that retirees had vested rights to the healthcare benefits contained in the CBAs in effect at the time they retired. On appeal from summary judgment, this court asks whether any genuine issues of material fact exist and whether the district court erred in its application of the law. *State by Cooper v. French*, 460 N.W.2d 2, 4 (Minn. 1990). This court reviews de novo a district court's grant of summary judgment on undisputed facts as a question of law. *Lefto v. Hoggsbreath Enters., Inc.*, 581 N.W.2d 855, 856 (Minn. 1998).

In *Housing & Redev. Auth. of Chisholm v. Norman*, 696 N.W.2d 329 (Minn. 2005), the Minnesota Supreme Court considered the issue of a public employee's

[1] The district court accepted the amounts of damages set forth in Plaintiffs' Memorandum in Support of Motion for Summary Judgment, and the parties did not dispute these figures. Because the district court did not address the issue of damages, we decline to consider it. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). We note, however, that retirees requested relief, for those who retired before the effective date of the 2003-2005 CBA, of full employer payment for single health-insurance coverage, with no deductible, and for those who retired before the effective date of the 2005-2007 CBA, employer payment of prescription-drug benefits. We also note that retirees have acknowledged a correction, based on the fact that four retirees who retired after September 1, 2003 are not entitled to reimbursement of the 20% single premium paid, based on the CBA in effect at the time they retired.

contractual right to healthcare benefits contained in the CBA in effect at the time she retired, when the union was decertified after her retirement, and the public employer unilaterally stopped paying benefits several years after her retirement. *Id.* at 331. The court in *Norman* held that (1) a public employer was statutorily authorized "to obligate itself in a CBA to pay retiree healthcare premiums indefinitely," and (2) the CBA in effect at the time of the public employee's retirement created vested contractual rights to retirement healthcare benefits, which survived the expiration of the CBA. *Id*. at 334, 337. Here, the district court found *Norman* controlling and concluded that, as in *Norman*, retirees' healthcare benefits vested at the time they retired and were not subject to later modification.

Appellant argues that *Norman* is distinguishable and that both governing statutory law and principles of contract preclude the vesting of retirees' healthcare benefits.

Governing statutes

Appellant maintains that the requirements of the Public Employment Law Labor Relations Act (PELRA) and statutory restrictions on the power of school districts to levy funds do not permit the result reached by the district court. PELRA requires that public-employment contracts be consistent with applicable statutes. *Am. Fed'n of State, County, & Mun. Employees v. State, Pub. Employment Relations Bd.*, 372 N.W.2d 786, 789 (Minn. App. 1985), *review denied* (Minn. Oct. 24, 1985).

Appellant argues that PELRA does not allow the vesting of benefits under an expired CBA because "[a] contract may not obligate an employer to fund all or part of the cost of healthcare benefits for a former employee beyond the duration of the contract."

Minn. Stat. § 179A.20, subd. 2a (2006). But the supreme court in *Norman* considered this argument and rejected it, noting that another provision of PELRA permitted a CBA to include "employer payment of, or contributions to, premiums for group insurance coverage of retired employees," which is considered a "term[ ] and condition[ ] of employment." *Norman*, 696 N.W.2d at 334 (quoting Minn. Stat. § 179A.03, subd. 19 (2004)). The supreme court thus concluded that "subdivision 2a was intended only to relieve public employers from any obligation to appropriate or set aside current resources to 'fund' these future liabilities to retirees" and did not preclude public employers from obligating themselves "in a CBA to pay retiree healthcare premiums indefinitely." *Id*. at 334–35.

Appellant also directs this court to Minn. Stat. § 471.61, subd. 2b, which requires that a local unit of government "allow a former employee and the employees' dependents to continue to participate indefinitely in the employer-sponsored hospital, medical, and dental insurance group that the employee participated in immediately before retirement." Minn. Stat. § 471.61, subd. 2b (2006). Under this provision, "[u]ntil the former employee reaches age 65, the former employee and dependents must be pooled in the same group as active employees for purposes of establishing premiums and coverage for hospital, medical, and dental insurance." *Id*., subd. 2b(b). Appellant argues that under this subdivision, retired employees under 65 are required to be pooled for health-insurance coverage in the same group as active employees, and that the terms of that group coverage for retirees was negotiated in successive CBAs after they retired.

The construction of a statute presents a legal issue, which this court reviews de novo. *Educ. Minn.-Chisholm v. Indep. Sch. Dist. No. 695*, 662 N.W.2d 139, 143 (Minn. 2003). A court first examines a statute to determine whether it is clear or ambiguous on its face. *Id.* A statute is ambiguous only if "its language is subject to more than one reasonable interpretation." *Id*. We read sections of a statute together to discern the statute's plain meaning. *See* Minn. Stat. § 645.17 (2006) (stating presumption that legislature intended "entire statute to be effective and certain").

Minn. Stat. § 471.61, subd. 2b(i), provides that it "does not limit rights granted to former employees under other state or federal law, or under collective bargaining agreements or personnel plans." Read together, subdivisions 2b(b) and 2b(i) express the plain meaning that, while a public employer is required to provide continuation group coverage for former employees, a former employee is not precluded from enforcing additional rights granted under a collective-bargaining agreement. Thus, Minn. Stat. § 471.61, subd. 2b, does not preclude the enforcement of retirees' vested rights to certain healthcare benefits, including appellant's payment of premiums for those benefits, as contained in the CBAs at the time of their respective retirements.

Appellant also argues that *Norman* is inapplicable because it did not address the specific statutory requirement that a local governmental unit which funds retiree healthcare benefits for former employees over 65 must provide coverage that coordinates with Medicare benefits. *See* Minn. Stat. § 471.611, subd. 2 (2006). Because the plaintiff in *Norman* was under 65 when she retired, and thus not eligible for Medicare, *Norman* did not address this issue. We therefore address this argument.

Appellant points out that there are recent Medicare supplements now available, including Part D, which address prescription-drug benefits, and it is reasonable to require that retirees apply for such coverage on their own. But the health-insurance coverage granted to retirees under the applicable CBAs provided that retirees who were eligible for Medicare would receive coverage under "the existing supplemental medical plans," which included prescription drug coverage. We therefore conclude that the provision of these healthcare benefits, to the extent that they include prescription-drug coverage for retirees, complies with the statutory requirement of coordination with Medicare benefits.

Appellant also maintains that appellant and Local 1330, as the exclusive bargaining agent for retirees, negotiated a reduction in retiree health benefits pursuant to Minn. Stat. § 471.6161, subds. 2-6 (2006), which provides requirements for school districts that negotiate for group-insurance contracts, and that this negotiation applies to these retirees. But this statute applies to negotiating contracts that apply to teachers who retire during the period covered by the existing CBA and to future retirees. It has no direct bearing on whether retirees had preexisting rights that vested under earlier CBAs. Further, appellant's additional reliance on Minn. Stat. § 43A.24, subd. 2(i) (2006), is misplaced. That statute, which provides for changes in the coverage of health insurance of certain retired state employees through collective bargaining, applies on its face only to employees "whose positions are in programs that are being permanently eliminated or reduced to federal or state policies or practices" and who are not covered by a collective bargaining unit. Minn. Stat. § 43A.24, subd. 2(i). Therefore, it does not apply here.

Finally, appellant argues that, unlike the public employer in *Norman*, a school district has statutory restrictions on its ability to levy funds to pay for retiree healthcare benefits. In *Norman*, the supreme court held that a statutory provision prohibited an employer from "funding" healthcare benefits for a former employee beyond the duration of a public-employment contract was not inconsistent with another provision requiring a public employer to allow a former employee to continue to participate in employer-sponsored group coverage. *Norman*, 696 N.W.2d at 333 (citing Minn. Stat. §§ 179A.20, subd. 2a, 471.61, subd. 2b (2004)). The *Norman* court concluded that a public employer was permitted to obligate itself "to pay" retiree healthcare premiums, even if it could not "fund" those premiums, because "to fund" referred only to the "obligation to appropriate or set aside current resources to 'fund' these future liabilities to retirees." *Id*. at 334. In a footnote, the court stated that this interpretation was consistent with the statutory authorization for public employers to impose a tax levy "for the purpose of providing the necessary funds for the payment of such premiums." *Id.* at 335 n.1 (quoting Minn. Stat. § 471.61, subd. 2a (2004)).

As appellant points out, school districts are not covered by this statutory authorization to levy funds by taxation. *See* Minn. Stat. § 471.61, subd. 2a. By statute, school districts may impose a levy to fund employer contributions to retiree healthcare benefits only in limited situations. *See, e.g.*, Minn. Stat. § 126C.41, subd. 1 (2006) (specifying limited circumstances under which school district may levy to maintain contributions for insurance for retired employees). Therefore, appellant argues, it has no

financial ability to fund the continuation of healthcare benefits for retirees at the level contained in the CBAs when they retired.

But although a school district has a limited ability to levy funds to support the payment of retiree healthcare benefits, this does not preclude a school district from contractually obligating itself to pay those benefits. And "[m]erely because a party testifies that he is unable to pay [his obligation under] a written contract does not constitute a defense against its enforcement, especially in the absence of fraud, ambiguity, or mistake." *Abbott v. Moldestad*, 74 Minn. 293, 301, 77 N.W. 227, 229 (1898). The fact that appellant may have an unfunded liability for retiree healthcare benefits does not constitute a defense to an action on the contract creating those benefits.[2]

Thus, the district court did not err in determining that Minnesota statutory law does not preclude the application of the principles in *Norman* to the provision of healthcare benefits for retirees in CBAs.

Terms of CBAs

Following *Norman*, we examine the terms of the CBAs in effect at the time of retirees' retirement to determine their entitlement to healthcare benefits. A CBA is a contract, and this court interprets and enforces a CBA as other contracts. *Norman*, 696 N.W.2d at 337. In a contractual analysis, this court first examines the language of a contract and looks to extrinsic evidence of intent only if the contract is, on its face,

[2] We recognize that appellant is operating under an SOD plan approved by the Minnesota Department of Education to reduce its substantial operating debt. But we note that appellant is not precluded from seeking additional authorization from the Minnesota legislature to levy funds necessary to pay for retirees' healthcare benefits, and, in fact, has recently done so. *See* S.F. 2095, third engrossment, 85th Sess. (2007-2008).

ambiguous. *Id.* Ambiguity exists if the language of the contract is "reasonably susceptible of more than one meaning." *Minn. Teamsters Pub. &. Law Enforcement Employees Local 320 v. County of St. Louis*, 726 N.W.2d 843, 847 (Minn. App. 2007) (quotation omitted), *review denied* (Minn. Apr. 25, 2007).

The CBA governing the plaintiff's healthcare benefits in *Norman* provided that retirees who had ten years of service "shall continue to be covered under . . . the existing hospital medical, surgical, drug and dental programs covering employees of the CHRA." *Norman*, 696 N.W.2d at 337 (quotation omitted). The supreme court determined that this language was unambiguous, and "[b]ecause [the plaintiff] retired before the CBA expired, her rights to this benefit vested and necessarily survive the expiration of the CBA." *Id*. (citing *Law Enforcement Labor Servs., Inc. v. County of Mower*, 483 N.W.2d 696, 701 (Minn. 1992)).

Here, in language very similar to that of the CBA in *Norman*, the CBAs in effect at the time of retirees' retirement provide that the retirees "shall continue to be insured under the then existing hospital and medical insurance program covering teachers of Independent School District No. 316," and if a retiree is eligible for Medicare, "he/she shall be covered by the existing supplemental medical plans." We conclude, as did the court in *Norman*, that, in particular, the use of the term "*then existing* medical and hospital insurance program" in the CBAs is unambiguous and expresses the parties' intent that appellant would continue to provide healthcare benefits to a retiring teacher under the provision expressed in the CBA at the time of that teacher's retirement, including the level of coverage and the percent of coverage paid by appellant.

The supreme court in *Norman* also noted that the relevant section in the applicable CBA did not limit the promise to pay the plaintiff's health-insurance premiums to the duration of the CBA. *Id*. at 337. Similarly, in this case none of the CBAs in effect when the retirees retired contained a provision limiting appellant's payment of healthcare benefits to the term of the CBA. Rather, the CBAs expressly provided for the continuation of payment of healthcare benefits for retirees. And we agree with the district court that the fact that the union in *Norman* was decertified and the CBA had expired did not affect the supreme court's holding in *Norman* or its applicability to retirees.

Therefore, the district court did not err in granting summary judgment concluding that retirees had vested rights to the healthcare benefits contained in the CBAs in existence at the time they retired, and in ordering that appellant pay retirees' damages and provide health-insurance coverage for them equal to that provided in those CBAs.

II

Appellant argues that the district court erred by determining that retirees' claim was not subject to the mandatory grievance provision of the 2005-2007 CBA. We review de novo the district court's decision regarding the arbitrability of disputes. *Minn. Teamsters Pub. &. Law Enforcement Employees' Union Local No. 320 v. County of St. Louis*, 611 N.W.2d 355, 358 (Minn. App. 2000).

The district court concluded that after they retired, retirees were no longer "public employees" within the meaning of PELRA and therefore were no longer required to submit grievances to binding arbitration. To resolve this issue, we first examine the

provisions of PELRA. Under PELRA, public employers and public employees must arbitrate matters that they are required to negotiate, namely, grievance procedures and terms and conditions of employment. Minn. Stat. §§ 179A.06, subd. 5, .07, subd. 2 (2006). "Terms and conditions of employment" includes "employer payment of, or contributions to, premiums for group insurance coverage of retired employees." Minn. Stat. § 179A.03, subd. 19 (2006). But "[f]ailure to reach agreement on employer payment of, or contributions toward, premiums for group insurance coverage of retired employees is not subject to interest arbitration . . . except for units of essential employees." Minn. Stat. § 179A.16, subd. 9 (2006). The Minnesota Supreme Court has held that, although employer payment of group coverage for retiree health-insurance premiums is a term of employment on which a public employer must meet and negotiate in good faith, if negotiations reach an impasse, the public employer is not required to submit that matter to binding arbitration. *County of Mower*, 483 N.W.2d at 701.

But the supreme court in *County of Mower* distinguished between the subject of payment of retiree healthcare premiums as a term and condition of employment, which is arbitrable, and a public employee's vested contractual right to those benefits after the employee has retired. *Id.* The court concluded that "[w]ith respect . . . to the rights of [current retirees], we leave the province of PELRA and invoke principles that sound in contract" and held that retirees' rights to healthcare benefits were "vested for the life of the retiree and [could not] be altered absent the retiree's express consent." *Id.* The

Norman court also cited *County of Mower* in its discussion of the public employee's vested rights in that case. *Norman*, 696 N.W.2d at 337.[3]

Appellant argues that *County of Mower* is distinguishable because the parties in that case stipulated to the court's jurisdiction and because the public employer advised the employees when they retired that it would unilaterally continue to pay healthcare premiums. But an examination of additional PELRA provisions also supports the district court's determination that retirees were no longer considered "employees" for the purpose of grieving their right to vested healthcare benefits. PELRA defines a "public employee" with certain exceptions, as "any person appointed or employed by a public employer." Minn. Stat. § 179A.03, subd. 14 (2006). And a "Teacher" is defined as

> any public employee other than a superintendent or assistant superintendent, principal, assistant principal, or a supervisory or confidential employee, employed by a school district:
>
> (1) in a position for which the person must be licensed by the Board of Teaching or the commissioner of education; or
>
> (2) in a position as a physical therapist or an occupational therapist.

Minn. Stat. § 179A.03, subd. 18 (2006). Therefore, retirees, who are no longer employed as teachers are no longer considered public employees. Thus, they are no longer

[3] The *Norman* court cited, in a footnote, *Litton Fin. Printing Div. v. Nat'l Labor Relations Bd.*, 501 U.S. 190, 207–08, 111 S. Ct. 2215, 2226 (1991), for the proposition that "when a CBA explicitly provides that certain benefits continue after the agreement expires, such benefits 'arise under' the CBA and therefore disputes regarding them are subject to postexpiration procedures unless negated expressly or by clear implication." *Norman*, 696 N.W.2d at 337 n.4. The court also cited other cases in which courts have determined that public employees' rights to benefits vested under expired CBAs. *Id*. at 337–38 n.4 (citing *Municipality of Anchorage v. Gentile*, 922 P.2d 248, 258 (Alaska 1996); *Poole v. City of Waterbury*, 831 A.2d 211, 223–24 (Conn. 2003)). We note that arbitrability was not an issue in *Norman* and cannot conclude that *Norman* requires arbitration in this case.

members of the bargaining unit, and Local 1330 is no longer their exclusive representative for purposes of asserting rights that vested on their retirement. *See* Minn. Stat. § 179A.03, subd. 8 (2006) (defining "exclusive representative" as "an employee organization which has been certified . . . to meet and negotiate with the employer on behalf of all employees *in the appropriate unit*" (emphasis added)); *see also* Minn. Stat. § 179A.03, subd. 2 (2006) (defining "unit," for school districts, as "all the teachers in the district"); *cf. Wallin v. Dep't of Corrections*, 598 N.W.2d 393, 404 (Minn. App. 1999) (holding, in a pre-*Norman* case, that a former employee who was attempting to challenge a settlement with his public employer reached after he grieved his discharge under a CBA, was required to resolve issues through grievance procedure), *review denied* (Minn. Oct. 21, 1999).

We next examine the provisions of the 2005-2007 CBA, which provide that grievances may be brought by "a party," and that parties "may be a teacher, immediate superior, teachers, the Union or the Board." The CBA also provides that "[e]ither the Board or an employee or the Union may raise a grievance within thirty (30) days of the alleged violation." Because retirees are no longer "teachers" or "employees" within the statutory definition of PELRA, they are not "parties" as defined in the CBA and are not required to arbitrate their benefits as retirees. *See Allied Chem. & Alkali Workers Local No. 1 v. Pittsburgh Plate Glass Co.*, 404 U.S. 157, 181 n.20, 92 S. Ct. 383, 398 n.20 (1971) (holding that because retirees were not employees and members of a bargaining unit within the meaning of the National Labor Relations Act, 29 U.S.C.A. §§ 151-168, the union was not under a statutory duty to represent them during negotiations, and

bargaining for their benefits was a permissive subject).[4] "[A]bsent a clear and unmistakable inclusion of retirees under the grievance procedure [in a CBA], they are not covered by the grievance procedure and their benefits, as retirees, are not subject to arbitration." Frank Elkouri & Edna Elkouri, *How Arbitration Works*, ch. 5.4.A, at 208 (Alan Miles Ruben ed., 6th ed. 2003).

Appellant argues that the record shows that retirees participated in submitting a grievance through Local 1330 to arbitration under the 2005-2007 CBA and that retirees "understood that the health insurance modifications [in subsequent CBAs] were applicable to active and, by retroactive application, to all retirees." This essentially amounts to an argument that retirees have waived their right to assert claims to continuing healthcare benefits outside of the grievance process. Waiver has been defined as "a voluntary relinquishment of a known right," and an intent to waive may be determined as a matter of law on a showing that conduct is "so inconsistent with a purpose to stand upon one's rights as to leave no room for a reasonable inference to the contrary." *Flaherty v. Indep. Sch. Dist. No. 2144*, 577 N.W.2d 229, 232 (Minn. App. 1998) (quotations omitted), *review denied* (Minn. June 17, 1998). On these facts, we cannot conclude that appellant has alleged facts sufficient to support an inference that retirees intentionally relinquished their right to assert claims to healthcare benefits arising

[4] The Minnesota Supreme Court has recognized that "[i]n interpreting provisions of the PELRA, it is often instructive to refer to decisions interpreting the National Labor Relations Act, 29 U.S.C.A. §§ 151 to 168." *Int'l Union of Operating Eng'rs, Local No. 49 v. City of Minneapolis*, 305 Minn. 364, 368, 233 N.W.2d 748, 752 (Minn. 1975).

under the CBAs at the time they retired. *See id.* at 233 (declining to apply doctrine of equitable waiver to require exhaustion of remedies in teacher-contract dispute).

Therefore, the district court did not err by determining that retirees are not required to proceed to arbitration on their claim to continuing healthcare benefits under the CBA in effect at the time of their retirement.

III

Appellant argues that the district court erred by dismissing appellant's third-party complaint against Local 1330 on the pleadings under Minn. R. Civ. P. 12.02 (e). On a motion to dismiss for failure to state a claim, the only question on appeal is whether the pleading sets forth a legally sufficient claim for relief regardless of whether the plaintiff can prove the alleged facts. *Elzie v. Comm'r of Pub. Safety*, 298 N.W.2d 29, 32 (Minn. 1980). We review this issue de novo and consider only the facts alleged in the complaint, accepting those facts as true and construing reasonable inferences in favor of the nonmoving party. *Bodah v. Lakeville Motor Express, Inc.*, 663 N.W.2d 550, 553 (Minn. 2003).

Under Minn. R. Civ. P. 14.01, a defendant may implead a third party if that party "is or may be liable . . . for all or part of the plaintiff's claim against [the original defendant]." Minn. R. Civ. P. 14.01. We agree with the district court that appellant's claim against Local 1330 failed to set forth a legally sufficient claim for relief. Appellant maintains that because all of retirees' claims derive from the provisions of the CBAs, which Local 1330 negotiated on their behalf, Local 1330 is a proper party to this action and may be held liable for any damages that retirees may recover from appellant. But

retirees do not argue that Local 1330 breached a duty to represent them in the bargaining process. Instead, they assert that they are entitled to enforce their contractual rights outside of the collective-bargaining process. The enforcement of these rights does not implicate Local 1330, and retirees may assert these rights on their own behalf. *See, e.g.*, *Norman*, 696 N.W.2d at 337; *see also Tynan v. KSTP, Inc.*, 247 Minn. 168, 179, 77 N.W.2d 200, 207 (1956) (considering individual employee's contractual claim to vacation pay under terms of collective bargaining agreement).

Local 1330 undertook no obligation to pay healthcare benefits under the relevant CBAs, and appellant has shown no theory under which appellant might recover from Local 1330. Because we conclude that the district court correctly dismissed Local 1330 on this basis, we need not address the district court's additional determination that dismissal of Local 1330 was proper because retirees were third-party beneficiaries of a contract between appellant and Local 1330.

Affirmed.