

IN THE COURT OF APPEALS OF IOWA

No. 7-070 / 06-0505
Filed February 28, 2007

DENISE ANN KETELSEN,
Plaintiff-Appellant,

vs.

TIPTON COMMUNITY SCHOOL DISTRICT,
Defendant-Appellee.

Appeal from the Iowa District Court for Cedar County, Gary D. McKenrick,
Judge.

Plaintiff appeals from a district court ruling granting the defendant's motion
to dismiss. **AFFIRMED.**

David Scieszinski, Wilton, for appellant.

Terry Abernathy of Pickens, Barnes & Abernathy, Cedar Rapids, for
appellee.

Considered by Zimmer, P.J., and Miller and Baker, JJ.

MILLER, J.

On January 12, 2006, Denise Ketelsen filed a petition at law seeking money damages from the Tipton Community School District (the school). Ketelsen alleged she was born April 23, 1987, attained the age of majority on April 24 (sic), 2005, and had been injured on April 15, 2002, as a result of the school's negligence. The school moved for dismissal, asserting Ketelsen's lawsuit was barred by the two-year statute of limitations found in Iowa Code section 670.5 (2005) and the case law interpreting it. The school, citing among other authorities *Harden v. State*, 434 N.W.2d 881 (Iowa 1989), argued in part that "[t]he tolling provisions of Iowa Code § 614.8[2] do not apply to actions brought under Iowa Code chapter 670." Ketelsen resisted, arguing she "ha[d] filed her action within the time set under chapter 614.8(2), Iowa Code." The district court sustained the school's motion for dismissal. Ketelsen appeals.

There is no dispute over the fact that the school is a "municipality" as defined in our Municipal Tort Claims Act. See Iowa Code § 670.1(2), defining "municipality" as including a "school district." Ketelsen claims: "The trial court erred in ruling that Iowa Code section 614.8[2] . . . did not extend the statute of limitations in favor of the plaintiff who was a minor when injured." We conclude that any doubt about the question was removed by our supreme court's February 9, 2007 opinion in *Perkins v. Dallas Center-Grimes Community School District*, ___ N.W.2d ___ (Iowa 2007). There the court stated that "nothing in [its prior cases] has indicated that the tolling provision [of section 614.8(2)] was intended to be read into section 670.5," *Perkins*, ___ N.W.2d at ____, and held that "[t]he two-year limitation in that statute remains intact," *id.* ____.

We conclude the district court was correct in sustaining the school's motion to dismiss on statute of limitation grounds. We therefore affirm.

AFFIRMED.