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IN THE COURT OF APPEALS OF IOWA

|                  |   |                      |
|------------------|---|----------------------|
| MARILYN EDWARDS, | ) |                      |
| Appellee,        | ) | Filed March 29, 1978 |
| vs.              | ) |                      |
| RICHARD EDWARDS, | ) | <u>451</u>           |
| Appellant.       | ) | 3-60874              |

Appeal from Scott District Court - R. K. Stohr, Judge.

Respondent father appeals trial court's refusal to transfer custody of the two younger children to him upon his application for a modification of a 1969 divorce decree seeking custody of the four minor children. - Affirmed.

Vincent Petrucelli, of Carlin & Darbyshire, P.C., Davenport, for Appellant.

Mary Ellen Kerr, Davenport, for Appellee.

Heard by Allbee, C.J., and Donielson, Snell, Oxberger and Carter, JJ.

## PER CURIAM

Respondent Richard Edwards appeals the portion of the trial court's order refusing to transfer custody of the two younger children to him upon his application for a modification of a 1969 divorce decree seeking custody of the four minor children. We affirm the trial court's order of split custody.

In denying Richard's application for modification seeking custody of the two younger children we are guided by *In re Marriage of Powers*, 226 N.W.2d 810 (Iowa 1975). *Powers* involved the same factors alleged here as a sufficient change of circumstances: 1) custodial parent diagnosed and treated for a serious illness with potential continuing effects, 2) remarriage of the non-custodial parent with an incidental acquisition of an adequate home for all the children, and 3) preference of the children to live with the non-custodial parent secured at least in part by the promise of material things. *Powers* affirmed the trial court's refusal to disturb a custodial arrangement in which the children had neither suffered nor wanted for attention in their present home. As the court of *Powers* concluded, we conclude that the real change in circumstances relied on here is Richard's remarriage; this neither justifies nor warrants a disruption in the existing custody arrangement.

The trial court made a lengthy finding of fact we find fully supported by the testimony at trial. Its Application of Law to Facts analyzes the change of circumstances urged and the weight to be accorded the expressed preference of the children to be in Richard's custody. We are in agreement with the trial court's finding that Marilyn has been the providing parent for eight years and has performed adequately. We agree also that the needs of the two older children for parental control differ significantly from the younger children's needs so as to dictate a change to Richard's custody for the 14 and 16-year-old sons but a retention in Marilyn of custody of the 11 and 9-year-old children.

AFFIRMED.