

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SANDRA J FLICKINGER
Claimant

DRM INC
Employer

APPEAL 21A-UI-13939-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/28/21
Claimant: Respondent (4)

Iowa Code § 96.5(2)a – Discharge from Employment
Iowa Admin. Code r. 871-24.1(113) – Separations

STATEMENT OF THE CASE:

On June 14, 2021, employer DRM, Inc., filed an appeal from the June 4, 2021 (reference 01) unemployment insurance decision that allowed benefits based on a determination that claimant did not voluntarily quit her employment but was discharged for no disqualifying reason. The parties were properly notified of the hearing. A telephonic hearing was held at 10:00 a.m. on Friday, August 13, 2021. The claimant, Sandra J. Flickinger, did not register a telephone number at which to be reached and did not participate in the hearing. The employer, DRM, Inc., participated through Scott Smith, District Manager; and hearing representative Pamela Doyle represented the employer. No exhibits were offered or admitted into the record. The administrative law judge took official notice of the administrative record.

ISSUE:

Did the claimant separate from employment?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant began her employment with employer DRM, Inc., in September 2018. Claimant is currently employed with the employer. Since June 2021, claimant has been a full-time general manager.

In March 2021, claimant was working for the employer as a salaried assistant manager. Claimant requested a demotion to an hourly assistant manager position. She made this request for personal reasons; she was not at any risk of being demoted for disciplinary reasons. Claimant did not have to apply for this new position.

Smith explained that claimant had to transfer stores to move into the hourly position, and there was a one-week period (the week ending April 10) where claimant did not work while she was waiting to transfer to her new location. However, this was not a break in her employment. The

agency has already issued a decision (reference 02) regarding the issue of whether claimant is able to and available for work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant did not separate from employment.

Iowa Admin. Code r. 871-24.1(113) states:

(113)*Separations.* All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. *Layoffs.* A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

b. *Quits.* A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

c. *Discharge.* A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.

d. *Other separations.* Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

In this case, the evidence in the record shows that claimant did not separate from employment. Rather, claimant moved seamlessly from one position (salaried assistant manager) to another position (hourly assistant manager) within the company. While she had a one-week period during which she did not work, this was not a separation from employment.

DECISION:

The June 4, 2021 (reference 01) unemployment insurance decision is modified in favor of the employer. Claimant did not separate from employment.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau

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August 17, 2021
Decision Dated and Mailed

lj/mn