

**EMPLOYMENT APPEALS BOARD DECISION**  
**2015-EAB-1529**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On November 9, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause (decision # 102621). Claimant filed a timely request for hearing. On December 16, 2015, ALJ Holmes-Swanson conducted a hearing, and on December 18, 2015 issued Hearing Decision 15-UI-49721, affirming the Department's decision. On December 24, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Trade N Tools employed claimant as a repair trainee from October 1 to 15, 2015.

(2) Claimant and the employer's owner knew each other for approximately two years before claimant started working for the employer. They considered each other friends and sometimes commiserated with each other regarding how difficult some customers could be.

(3) After the employer hired claimant, he often worked alongside the owner. The owner often complained about customers and the tools he was attempting to repair, yelled, and sometimes threw the tools. The verbal outbursts generally did not last long, and he did not complain to, yell at or threaten customers. Nor did he use foul language or throw the tools at anyone. The owner occasionally became frustrated with claimant's work, and acted in a similar manner toward him. The owner's wife apologized to claimant for the owner's behavior, and claimant felt some "solidarity" with her. Audio Record at 18:30. Claimant did not complain to the owner about his behavior.

(4) On October 15, 2015, the owner expressed frustration and anger with himself and his inability to repair a tool. Claimant asked the owner a question the owner believed claimant should know the answer to. The owner replied, "Figure it out. If you can't figure it out, take the rest of the day off, and we'll figure it out tomorrow." Audio Record at 46:30. Claimant left work and, later that day, notified the employer via email that he was quitting work, effective immediately.

(5) Claimant quit work due to the owner's behavior at work.

**CONCLUSIONS AND REASONS:** We agree with the Department and the ALJ that claimant quit working for the employer without good cause.

A claimant who leaves work voluntarily is disqualified from the receipt of benefits unless he proves, by a preponderance of the evidence, that he had good cause for leaving work when he did. ORS 657.176(2)(c); *Young v. Employment Department*, 170 Or App 752, 13 P3d 1027 (2000). "Good cause" is defined, in relevant part, as a reason of such gravity that a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would have no reasonable alternative but to leave work. OAR 471-030-0038(4) (August 3, 2011).

At hearing, claimant asserted that he found the employer's owner's behavior at work intolerable, and that he felt too threatened by the behavior to complain to the owner. Audio Record at 14:00, 23:30. However, the "good cause" standard is objective. *McDowell v. Employment Department*, 348 Or 605, 612, 236 P3d 722 (2010). A claimant who quits work must show that no reasonable and prudent person would have continued to work for his employer for an additional period of time.

Here, the owner typically complained about customers and tools he was working on, and not claimant. The outbursts generally did not last long, and the owner did not complain to, yell at, or threaten customers. He did not use foul language or throw the tools at anyone. Nor did claimant show that the behavior directed at him was so egregious that a reasonable and prudent person would have no reasonable alternative but to quit work, especially without first attempting to resolve the situation with the owner, with whom he had been friends for approximately two years, and given that he could reasonably expect support from the owner's wife.

We therefore conclude that claimant quit working for the employer without good cause. Claimant is disqualified from the receipt of benefits.

**DECISION:** Hearing Decision 15-UI-49721 is affirmed.

Susan Rossiter and J. S. Cromwell.

**DATE of Service: January 15, 2016**

**NOTE:** You may appeal this decision by filing a Petition for Judicial Review with the Oregon Court of Appeals within 30 days of the date of service listed above. See ORS 657.282. For forms and information, you may write to the Oregon Court of Appeals, Records Section, 1163 State Street, Salem, Oregon 97310 or visit the Court of Appeals website at [courts.oregon.gov](http://courts.oregon.gov). Once on the website, use the 'search' function to search for 'petition for judicial review employment appeals board'. A link to the forms and information will be among the search results.

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