

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-0952**

*Affirmed*  
*Disqualification*  
*(Descalificación)*

**PROCEDURAL HISTORY:** On July 8, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause (decision # 134944). Claimant filed a timely request for hearing. On August 9, 2016, ALJ Vincent conducted a hearing, and on August 11, 2016 issued Hearing Decision 16-UI-65458, affirming the Department's decision. On August 15, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Varsity Contractors Inc. employed claimant as a housekeeper from March 18, 2010 to April 9, 2016.

(2) Claimant lived and worked for the employer in Prineville, Oregon. He worked for the employer three hours per day, six days per week, and was paid \$9.25 per hour. Claimant asked the employer to increase his hours. The employer informed claimant that it would increase his hours to four or five per day if he was willing to work in Bend or La Pine, Oregon. Bend is approximately 34 miles from Prineville. Claimant was unwilling to work in Bend because it would cost him approximately \$9 per day to commute to and from work.

(3) Claimant's supervisor sometimes told claimant to "hurry up" or that he "wasn't doing a good job." Transcript at 5-6. On one occasion, claimant's supervisor showed claimant some urine spots on a restroom wall, and instructed claimant to clean them. Claimant was unable to see the urine spots until his supervisor used an ultraviolet light to illuminate them. Claimant's supervisor told claimant that he might need to get his eyes tested.

(4) Claimant quit work because the employer was unwilling to increase his hours at the Prineville location or increase his rate of pay, and because of his supervisor's behavior toward him.

**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). The 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.

In the present case, claimant quit work, in part, because the employer was unwilling to increase his hours at the Prineville location or increase his rate of pay. However, claimant failed to show that the cost of working 18 hours per week at the Prineville location exceeded the pay he received. Nor did claimant show that the increased cost of his commute to and from Bend would have exceeded the additional pay he would have received due to the increase in hours. Claimant therefore failed to establish that no reasonable and prudent would have continued to work for his employer in Prineville or Bend for an additional period.

Claimant also testified that he quit work because his supervisor “harassed” him by “yelling” at him, telling him to “hurry up,” that he “wasn’t doing a good job,” and to “go to an eye doctor.” Transcript at 4-6. However, claimant’s supervisor denied yelling at claimant,<sup>1</sup> and absent a basis for concluding that the supervisor was not a credible witness, the evidence on that issue is equally balanced. Claimant therefore failed to show by a preponderance of evidence that his supervisor yelled at him.

Claimant’s supervisor also explained that he told claimant he might need to get his eyes tested because of claimant’s inability to see urine spots on a restroom wall without the aid of an ultraviolet light. Transcript at 10-11. The fact that he made such a comment on one occasion and sometimes expressed dissatisfaction with claimant’s work does not amount to harassment, or a work environment so oppressive or hostile that no reasonable and prudent person would continue to work for his employer for an additional period of time.

Claimant quit work without good cause, and is disqualified from receiving benefits based on his work separation from the employer.

**DECISION:** Hearing Decision 16-UI-65458 is affirmed. *Decisión de la Audiencia 16-UI-65458 queda confirmada.*

J. S. Cromwell and D. P. Hettle;  
Susan Rossiter, not participating.

**DATE of Service: September 8, 2016**

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<sup>1</sup> Transcript at 10.

**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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*NOTA: Usted puede apelar esta decisión presentando una solicitud de revisión judicial ante la Corte de Apelaciones de Oregon (Oregon Court of Appeals) dentro de los 30 días siguientes a la fecha de notificación indicada arriba. Ver ORS 657.282. Para obtener formularios e información, puede escribir a la Corte de Apelaciones de Oregon, Sección de Registros (Oregon Court of Appeals/Records Section), 1163 State Street, Salem, Oregon 97310 o visite el sitio web en [courts.oregon.gov](http://courts.oregon.gov). En este sitio web, hay información disponible en español.*

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