

**EMPLOYMENT APPEALS BOARD DECISION**  
**2017-EAB-1429**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On October 5, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 111141). Claimant filed a timely request for hearing. On November 17, 2017, ALJ R. Frank conducted a hearing, and on November 22, 2017 issued Hearing Decision 17-UI-97485, affirming the Department's decision. On December 12, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Lyda Excavating, Inc. employed claimant from approximately late-March 2017 to August 31, 2017. Claimant performed labor and concrete work for the employer, and was placed in a leadership role.

(2) The owner regularly yelled at claimant and staff out of frustration, last on August 30, 2017, when he thought they had incorrectly performed their jobs. The owner also sometimes engaged in name-calling. Claimant did not like the owner's yelling and was thinking about quitting his job. He did not tell the owner that he objected to the yelling or was offended by it, and did not ask the owner to stop doing it.

(3) On August 31, 2017, the owner talked to claimant about work that was in progress and some upcoming work. Claimant felt like the conversation was about how claimant "was wasting his [the owner's] money today." Audio recording at ~ 11:00. The same day, claimant sent the employer a text message stating that he quit work.

**CONCLUSIONS AND REASONS:** We agree with the ALJ that claimant voluntarily left work 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 an additional period of time.

There is no dispute in this case that the owner yelled at claimant and others during work, thereby creating an unpleasant work environment for claimant. Under some circumstances, such a work environment may amount to good cause for quitting work. In this case, however, claimant testified that he never told the owner that he objected to the yelling or was offended by it, and he did not ask the employer to stop or tell the owner that he was considering quitting his job if the owner did not stop yelling. The preponderance of the evidence does not support a conclusion that expressing his thoughts about the owner's approach to him and others, or asking the owner to change his approach, would have been futile. We therefore conclude that claimant did not have no reasonable alternative but to leave work because of the owner's yelling, and did not establish good cause for quitting work, and he is disqualified from receiving benefits because of this work separation.

**DECISION:** Hearing Decision 17-UI-97485 is affirmed.

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

**DATE of Service: January 16, 2018**

**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.

**Please help us improve our service by completing an online customer service survey.** To complete the survey, please go to <https://www.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.