

Get the F*** Off My Site! Court Upholds Verbal Contract Termination

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An Idaho court has confirmed an arbitration award for a general contractor who left a project and did not return after being told by the owner to “get the f*** off my site.” The case involves the construction of five buildings within 200 days. Dissatisfied with the contractor’s progress, the owner sent written notices demanding that the contractor cure defects within 30 days. Seven days after the last notice was sent, the owner visited the project site and told the contractor in colorful and no uncertain terms to leave the premises. The contractor complied with that instruction, stopped all work on the project, and had the city remove it as the general contractor on the job.

In the ensuing arbitration, the owner claimed that the contractor had breached the contract first when it stopped work. According to the owner, the verbal instruction to leave the property was not a valid termination because the contract required any modifications to be in writing and delivered by mail or in-person. By the owner’s logic, the contractor was obligated to continue working despite being told to leave. The arbitrator rejected the owner’s argument and held that the verbal instruction to leave was a valid termination that excused any further performance by the contractor.

The owner sought to vacate the arbitration award, but the trial court denied the owner’s motion to vacate and confirmed the award. The owner then appealed to the Idaho Court of Appeals. On appeal, the owner argued that the award should be vacated because the arbitrator exceeded his powers. In Idaho, an arbitrator exceeds his powers when the arbitrator considers an issue not submitted by the parties or exceeds the bounds of the contract. According to the court, challenges to an arbitrator’s legal or factual conclusions are not grounds for vacatur. The court found that the modification language in the contract was “not a directive or limitation on the arbitrator but rather, [was] a clause of legal consequence discussing how the contract may be terminated or modified between the parties.” Concluding that the owner’s argument was actually an attack on the arbitrator’s legal conclusion that may not be reviewed for its substance, the court rejected the owner’s argument that the arbitrator had exceeded his powers by violating a non-discretionary directive of the contract. The Court of Appeals affirmed the trial court’s confirmation of the award and further awarded the contractor attorneys’ fees for the appeal. The case illustrates how courts construe the requirements for overturning an arbitration award. A copy of the court’s decision can be found [here](#).

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National Law Review, Volume XIV, Number 326

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