



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Office of Federal Operations
P.O. Box 77960
Washington, DC 20013**

[REDACTED]
Leota F.,¹
Complainant,

v.

Louis DeJoy,
Postmaster General,
United States Postal Service
(Field Areas and Regions),
Agency.

Appeal No. 2023000438

Hearing No. 560-2020-00378X

Agency No. 4J-63-0016-20

DISMISSAL OF APPEAL

On October 28, 2022, Complainant filed an appeal with the Equal Employment Opportunity Commission (EEOC or Commission) from the August 31, 2022 final Agency decision concerning her EEO complaint of unlawful employment discrimination in violation of Title VII of the Civil Rights Act of 1964 (Title VII), as amended, 42 U.S.C. § 2000e et seq. and Section 501 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended, 29 U.S.C. § 791 et seq.

On February 7, 2020, Complainant filed a formal EEO complaint, which was subsequently amended, alleging she was subjected to discrimination and harassment based on disability (plantar fasciitis and Achilles tendonitis) when:

¹ This case has been randomly assigned a pseudonym which will replace Complainant's name when the decision is published to non-parties and the Commission's website.

1. On dates since September 24, 2019, management did not provide her assistance with correcting deficiencies with boxes;
2. On October 9, 2019, management did not file the medical documentation she submitted, and asked her questions about an accident that had occurred years earlier;
3. On October 16, 2019, her supervisor was verbally aggressive with her;
4. On November 1, 2019, a supervisor she had a protection order against entered the building;
5. On November 5, 2019, management harassed her while casing mail and performing other duties, and accused her of poor work performance;
6. On December 11, 2019, she requested a special route inspection and received no response;
7. On October 26 and 28, 2019 and November 21 and 25, 2019, she was charged Leave Without Pay (LWOP) and Absent Without Leave (AWOL);
8. On October 16, 2019, November 6, 2019, and December 24, 2019, she was given predisciplinary interviews (POI);
9. On January 8, 2020, she was issued a Letter of Warning (LOW);
10. On January 14, 2020, management accused her of having improper footwear;
11. On February 4, 2019, management told a co-worker to give up their chair to her because of her medical condition; and
12. On February 27, 2020, she was given a 7-Day Suspension, which was issued to her on the workroom floor in front of her coworkers.

Following an investigation, Complainant requested a hearing on her complaint before an EEOC Administrative Judge (AJ). On August 19, 2022, the AJ issued a decision finding decision finding Complainant failed to establish she was subjected to discrimination or harassment as alleged.

On August 31, 2022, the Agency issued a decision implementing the AJ's decision finding no discrimination.

EEOC Regulation 29 C.F.R. §1614.402(a) provides that appeals to the Commission must be filed within 30 calendar days after receipt of the Agency's decision. The record reveals the final decision was sent to Complainant and her attorney via USPS Tracking. A review of the final decision reveals that the Agency properly advised Complainant that she had 30 calendar days after receipt of its final decision to file an appeal with the Commission. The record reveals Complainant's attorney received the Agency decision on September 3, 2022. Documentation in the record reveals the appeal was filed on October 28, 2022, which is beyond the filing period. Complainant has not offered adequate justification for an extension of the applicable time limit for filing her appeal.

CONCLUSION

Accordingly, Complainant's appeal is DISMISSED. See 29 C.F.R. §1614.403(c).

STATEMENT OF RIGHTS - ON APPEAL RECONSIDERATION (M0124.1)

The Commission may, in its discretion, reconsider this appellate decision if Complainant or the Agency submits a written request that contains arguments or evidence that tend to establish that:

1. The appellate decision involved a clearly erroneous interpretation of material fact or law; or
2. The appellate decision will have a substantial impact on the policies, practices, or operations of the agency.

Requests for reconsideration must be filed with EEOC's Office of Federal Operations (OFO) **within thirty (30) calendar days** of receipt of this decision. If the party requesting reconsideration elects to file a statement or brief in support of the request, **that statement or brief must be filed together with the request for reconsideration**. A party shall have **twenty (20) calendar days** from receipt of another party's request for reconsideration within which to submit a brief or statement in opposition. See 29 C.F.R. § 1614.405; Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO MD-110), at Chap. 9 § VII.B (Aug. 5, 2015).

Complainant should submit their request for reconsideration, and any statement or brief in support of their request, via the EEOC Public Portal, which can be found at <https://publicportal.eeoc.gov/Portal/Login.aspx>. Alternatively, Complainant can submit their request and arguments to the Director, Office of Federal Operations, Equal Employment Opportunity Commission, via regular mail addressed to P.O. Box 77960, Washington, DC 20013, or by certified mail addressed to 131 M Street, NE, Washington, DC 20507. In the absence of a legible postmark, a complainant's request to reconsider shall be deemed timely filed if OFO receives it by mail within five days of the expiration of the applicable filing period. See 29 C.F.R. § 1614.604.

An agency's request for reconsideration must be submitted in digital format via the EEOC's Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g). Either party's request and/or statement or brief in opposition must also include proof of service on the other party, unless Complainant files their request via the EEOC Public Portal, in which case no proof of service is required.

Failure to file within the 30-day time period will result in dismissal of the party's request for reconsideration as untimely, unless extenuating circumstances prevented the timely filing of the request. **Any supporting documentation must be submitted together with the request for reconsideration.** The Commission will consider requests for reconsideration filed after the deadline only in very limited circumstances. See 29 C.F.R. § 1614.604(f).

COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (S0124)

You have the right to file a civil action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision. If you file a civil action, you must name as the defendant in the complaint the person who is the official Agency head or department head, identifying that person by their full name and official title. Failure to do so may result in the dismissal of your case in court. "Agency" or "department" means the national organization, and not the local office, facility or department in which you work. If you file a request to reconsider and also file a civil action, **filings a civil action will terminate the administrative processing of your complaint.**

RIGHT TO REQUEST COUNSEL (Z0815)

If you want to file a civil action but cannot pay the fees, costs, or security to do so, you may request permission from the court to proceed with the civil action without paying these fees or costs. Similarly, if you cannot afford an attorney to represent you in the civil action, you may request the court to appoint an attorney for you. **You must submit the requests for waiver of court costs or appointment of an attorney directly to the court, not the Commission.** The court has the sole discretion to grant or deny these types of requests. Such requests do not alter the time limits for filing a civil action (please read the paragraph titled Complainant's Right to File a Civil Action for the specific time limits).

FOR THE COMMISSION:



Carlton M. Hadden, Director
Office of Federal Operations

March 5, 2025

Date