



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Office of Federal Operations

P.O. Box 77960

Washington, DC 20013

[REDACTED]
Sarah O,¹
Complainant,

v.

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

Request No. 2024003264

Appeal No. 2022004474

Hearing No. 460-2022-00010X

Agency No. 4G-770-0090-21

DECISION ON REQUEST FOR RECONSIDERATION

Complainant timely requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in EEOC Appeal No. 2022004474 (April 23, 2024).

ISSUE PRESENTED

Whether Complainant's request for reconsideration of EEOC Appeal No. 2022004474 meets the criteria detailed in 29 C.F.R. § 1614.405(c).

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.

BACKGROUND

During the relevant time, Complainant worked as a Carrier Technician, Q-02, assigned to the Albert Thomas Station in Houston, Texas.

Complainant filed a formal complaint, claiming hostile workplace discrimination based on race (African American), color, (Black), sex (female), religion (Christian), and disability (knee, shoulder and lumbar cervical spine) when:

1. Beginning on or about November 17, 2020, and ongoing, she was not afforded the opportunity to work eight (8) hours per day limited duty accommodation;
2. On unspecified date(s), management deliberately input the wrong codes in the Time and Attendance Control System (TACS) in order to delay her pay;
3. On an unspecified date(s), her request for light duty accommodation was not granted;
4. On an unspecified date, management discussed her medical information on the workroom floor;
5. On an unspecified date, management called the police on her; and
6. Since April 29, 2021, and continuing, she was denied reasonable accommodation when she was sent home every day and charged absent without leave (AWOL) because management refused to provide her with a van rather than a Long Life Vehicle (LLV) to deliver her route.

After an investigation, Complainant requested a hearing, and the assigned EEOC Administrative Judge (AJ) issued a decision by summary judgment concluding the evidence of record did not establish any discrimination. Thereafter, the Agency issued a final order implementing the AJ's finding of no discrimination. Complainant appealed.

In EEOC Appeal No. 2022004474, the Commission affirmed the Agency's final order implementing the AJ's finding of no discrimination.

We noted that, for example, regarding claims 1 and 3, based on the medical documentation Complainant provided to the District Reasonable Accommodation Committee (DRAC), she was initially given the modified assignment of one hour casing her route then protected leave for the remainder of her workday. Management stated that Complainant worked the accommodation one week, then took off due to COVID-19, and then filed a claim concerning a shoulder injury. Despite requests, Complainant failed to provide sufficient medical documentation in support of her shoulder injury. Complainant provided medical documentation in support of her knee injury by April 2021, and the Agency provided her a limited duty job offer based on those restrictions. As to claim (2), Complainant acknowledges that when she informed management of the incorrect codes, it was corrected, and she was paid. Management officials denied intentionally inputting her time codes incorrectly. With respect to claim (5), Agency management called the police after Complainant refused to work and refused to leave the premises as instructed.

Regarding claim 4, we agreed with the AJ that there is no evidence that confidential medical information was improperly disclosed. Complainant claimed that Supervisor1 told a co-worker about her restrictions after the co-worker asked if Complainant was going to carry her route. The record does not demonstrate that Supervisor1 shared any information regarding Complainant's medical conditions to anyone who did not have a need-to-know basis.

Finally, concerning claim 6, we concluded that Complainant was an individual with a disability, within the meaning of the Rehabilitation Act. However, the record does not support the finding that Complainant was able to perform the essential functions of her position with or without a reasonable accommodation during the relevant time frame. The Agency, nevertheless, provided Complainant with accommodations through OWCP since her injury occurred on-the-job. Complainant failed to present evidence to establish that the Agency had more work to give her within her medical restrictions during the relevant timeframe (August 2020 through April 2021). With respect to Complainant's request to use a van rather than an LLV in April 2021, the record establishes that the Agency requested medical documentation in support of the requested accommodation, but that Complainant failed to present any medical documentation of her inability to drive an LLV until June 1, 2021. We also found sufficient evidence to support the need for a second medical opinion, given the limited information provided in the June 1, 2021 medical note.

Accordingly, when viewing the record in the light most favorable to Complainant, the record did not support a finding that she was denied a reasonable accommodation in violation of the Rehabilitation Act.

CONTENTIONS ON REQUEST

Complainant offers little in the instant request other than restating her previous contentions of having been a victim of unlawful discrimination. Complainant also presents previously submitted exhibits.

STANDARD OF REVIEW

EEOC regulations provide that the Commission may, in its discretion, grant a request to reconsider any previous Commission decision issued pursuant to 29 C.F.R. § 1614.405(a), where the requesting party demonstrates 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. See 29 C.F.R. § 1614.405(c).

ANALYSIS

We have reviewed the submissions by Complainant in support of the instant request for reconsideration. However, we determine that there is no reason to disturb the Commission's prior decision. As already noted, Complainant raises little argument to support her request for reconsideration. We emphasize that a request for reconsideration is not a second appeal to the Commission. Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO MD-110), Chap. 9 § VI.A (Aug. 5, 2015); see, e.g., Lopez v. Dep't of Agric., EEOC Request No. 0520070736 (Aug. 20, 2007). Rather, a reconsideration request is an opportunity to demonstrate that the appellate decision involved a clearly erroneous interpretation of material fact or law, or will have a substantial impact on the policies, practices, or operations of the Agency. Complainant has not done so here.

After reviewing the previous decision and the entire record, the Commission finds that the request fails to meet the criteria of 29 C.F.R. § 1614.405(c), and it is the decision of the Commission to deny the request. The decision in EEOC Appeal No. 2022004474 remains the Commission's decision. There is no further right of administrative appeal on the decision of the Commission on this request.


COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (P0124)

This decision of the Commission is final, and there is no further right of administrative appeal from the Commission's decision. 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.

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

December 31, 2024
Date