



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

[REDACTED]
Virginia V,¹
Complainant,

v.

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

Appeal No. 2024003862

Agency No. 4G-752-0116-24

DECISION

Complainant filed a timely appeal with the Equal Employment Opportunity Commission (EEOC or Commission) from the Agency's decision (Dismissal) dated May 13, 2024, dismissing her 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. For the reasons below, we AFFIRM the Dismissal.

ISSUES PRESENTED

Did the Agency properly dismiss Complainant's complaint for stating the same claim as a previously filed complaint?

BACKGROUND

At the time of events giving rise to this complaint, Complainant worked as a Supervisor, Customer Services, 17 E, at the Agency's Post Office facility in

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.

Duncanville, Texas. On April 6, 2024, Complainant filed a formal complaint alleging that the Agency subjected her to discrimination on the basis of sex (female) when:

1. On August 30, 2023, Complainant became aware the postmaster gave one of Complainant's subordinate employees authorization to report to work outside of his assigned work schedule and on September 1, 2023, the same employee was allowed to not follow Complainant's instructions to provide medical documentation;
2. On or about September 25, 2023, Complainant was issued a Letter of Warning for not completing observations;
3. On or about September 26, 2023, Complainant was issued a Letter dated September 24, 2023, and was told that she was a horrible worker within hearing distance of Complainant's NAAPS Representative, employees, and customers;
4. On September 26, 2023, through September 29, 2023, and other unspecified dates, Complainant was required to work the retail counter with no break;
5. On September 29, 2023, Complainant was harassed about not completing "4776 forms";
6. On September 29, 2023, Complainant was given an investigative interview and during the interview the Postmaster made inappropriate comments;
7. On October 4, 2023, Complainant's days off were changed from Saturday/Sunday to Wednesday/Sunday and her start time has changed multiple times;
8. On October 19, 2023, management attempted to have Complainant deliver a heavy package;
9. On or about October 23, 2023, Complainant was required to complete another supervisor's observations;
10. On November 1, 2023, Complainant was not afforded the opportunity for TACS training;
11. On November 1, 2023, Complainant was issued a Letter of Warning for Unacceptable Performance/Failure to Follow Instructions;
12. On November 6, 2023, Complainant was required to sit in the storage closet;
13. On November 6, 2023, and other dates, Complainant was instructed to deliver packages;
14. On November 7, 2023, Complainant was accused of malicious compliance and sabotaging the operation;

15. On November 9, 2023, Complainant's chair was removed and she was required to work standing at the retail counter until the letter carriers returned from the street; and
16. On November 9, 2023, through November 13, 2023, Complainant was told that her medical documentation was unacceptable and subsequently, her request for Wounded Warrior Leave was changed to Leave without Pay (LWOP).

The Agency dismissed the claims on the grounds that Complainant had previously filed the same claim.

CONTENTIONS ON APPEAL

Complainant contends that her previous complaint included age as a basis and since the Postmaster had not mentioned Complainant's age, and also since Complainant was now working in a different office where she was not "threatened or harassed," she withdrew the prior complaint. Complainant further contends that she is still assigned to her old office and that she "may be required to return . . . at any time" and so she is filing the instant complaint "for my safety and protection." The Agency makes no contention on appeal.

STANDARD OF REVIEW

The Agency's decision to dismiss a complaint is subject to de novo review by the Commission, which requires the Commission to examine the record without regard to the factual and legal determinations of the previous decision maker and issue its decision based on the Commission's own assessment of the record and its interpretation of the law. 29 C.F.R. § 1614.405(a). The Commission should construe the complaint in the light most favorable to the complainant and take the complaint's allegations as true. See Cobb v. Department of the Treasury, EEOC Request No. 05970077 (March 13, 1997). Thus, all reasonable inferences that may be drawn from the complaint's allegations must be made in favor of the complainant.

ANALYSIS

Pursuant to 29 C.F.R. § 1614.107(a), the agency shall dismiss a complaint that states the same claim that is pending before or has been decided by the agency or Commission. The Agency has presented evidence showing that Complainant previously raised the same issues listed above in Agency Case Number 4G-752-0065-24, before withdrawing the complaint on December 7,

2023. Complainant on appeal acknowledges that she withdrew her earlier complaint. Because Complainant previously-filed the same matters, we find that the Agency properly dismissed the current claim.

CONCLUSION

The Dismissal is AFFIRMED.

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, **filing 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

December 4, 2024

Date