



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

**Office of Federal Operations**

**P.O. Box 77960**

**Washington, DC 20013**

[REDACTED]  
Jessica E,<sup>1</sup>  
Complainant,

v.

Louis DeJoy,  
Postmaster General,  
United States Postal Service,  
Agency.

Appeal No. 2024004005

Agency No. 4E- 926-0047-24

**DECISION**

Complainant filed a timely appeal with the Equal Employment Opportunity Commission (EEOC or Commission) from the Agency's decision dated May 20, 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 discussed below, we affirm the Agency's final decision.

**ISSUES PRESENTED**

Whether the Agency's final decision properly dismissed Complainant's formal complaint for failure to state a claim pursuant to EEOC Regulation 29 C.F.R. § 1614.107(a)(1).

**BACKGROUND**

During the relevant time, Complainant worked for the Agency as a Lead Sales and Service Associate in Los Angeles, California.

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<sup>1</sup> 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.

On May 1, 2024, Complainant filed a formal complaint alleging that the Agency subjected her to discrimination in reprisal for prior protected EEO activity when:

on January 10, 2024, Complainant's supervisor did not follow proper procedures when conducting an audit of Complainant's cash drawer. Complainant further contends that her supervisor was rude and made her feel like a criminal.

On May 1, 2024, the Agency issued a final decision dismissing the instant complaint for failure to state a claim. The Agency reasoned that Complainant failed to demonstrate that she was adversely affected by the Agency's alleged discriminatory conduct.

#### CONTENTIONS ON APPEAL

On appeal, Complainant in essence argues that the alleged Agency actions raised in the instant formal complaint deter pursuit of the EEO complaint process.

The Agency offers no response.

#### 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

Under the regulations set forth at 29 C.F.R. Part 1614, an agency shall accept a complaint from an aggrieved employee or applicant for employment who believes that they have been discriminated against by that agency because of race, color, religion, sex, national origin, age or disabling condition. 29 C.F.R. §§ 1614.103, .106(a).

The Commission's federal sector case precedent has long defined an "aggrieved employee" as one who suffers a present harm or loss with respect to a term, condition, or privilege of employment for which there is a remedy. Diaz v. Dep't of the Air Force, EEOC Request No. 05931049 (Apr. 21, 1994). If the complainant cannot establish that they are aggrieved, the agency shall dismiss a complaint for failure to state a claim. 29 C.F.R. § 1614.107(a)(1). In instances of reprisal, the Commission has a policy of considering reprisal claims with a broad view of coverage. See Carroll v. Dep't of the Army, EEOC Request No. 05970939 (Apr. 4, 2000). Under Commission policy, claimed retaliatory actions which can be challenged are not restricted to those which affect a term or condition of employment. The statutory anti-retaliation provisions prohibit any adverse treatment that is based on a retaliatory motive and is reasonably likely to deter a reasonable employee from engaging in protected activity. Burlington N. & Santa Fe. Ry. Co. v. White, 548 U.S. 53 (2006).

Likewise, a harassment/hostile work environment allegation does not require an adverse action to a specific term, condition, or privilege of a complainant's employment to state a claim, so long as the complainant can establish that the alleged discriminatory action was intended to create a hostile work environment, and that the alleged harassing conduct was sufficiently severe or pervasive as to alter the conditions of the complainant's employment. See Harris v. Forklift Systems, 310 U.S. 17, 21 (1993). All alleged harassing incidents and remarks must be considered together, in the light most favorable to the complainant, when determining whether they state a claim. Cobb v. Dep't of the Treasury, EEOC Request No. 05970077 (Mar. 13, 1997).

Complainant raised a single incident of alleged harassment regarding an audit of her cash drawer. Here, Complainant's claim does not indicate that she suffered a harm or loss with respect to a term, condition, or privilege of employment for which there is a remedy. Applying, moreover, the broad view coverage afforded to reprisal claims, we find no indication that the alleged discriminatory act would deter Complainant or others from engaging in future protected activity. As for establishing harassment or hostile work environment, we find the alleged discrimination, comprised of a single incident, too isolated and insufficiently severe to establish the existence of a hostile work environment. See James v. Dep't of Health and Human Serv., EEOC Request No. 05940327 (Sept. 20, 1994); Walker v. Ford Motor Company, 684 F.2d 1355 (11<sup>th</sup> Cir. 1982).

Complainant and several of her witnesses raise generalized claims alluding to ongoing harassment by Complainant's supervisor.

For instance, Complainant states in her formal complaint that the behavior of her supervisor has a negative impact on the work environment and briefly alludes to a 14-day suspension occurring on an unspecified date. Complainant makes other general references to her supervisor being rude and intimidating. However, Complainant does not provide specifics aside from her one express claim as identified above. These other generalized claims provided by Complainant do not establish the existence of a hostile work environment. See Malewich v. United States Postal Serv., EEOC appeal No. 01A40485 (March 12, 2004).

Complainant failed to show that she suffered harm or loss with respect to a term, condition, or privilege of employment for which there is a remedy. Finally, we determine that the alleged Agency action was not of a type reasonably likely to deter Complainant or others from engaging in prior protected activity. Lindsey v. USPS, EEOC Request No. 05980410 (November 4, 1999) (citing EEOC Compliance Manual, No. 915.003 (May 20, 1998)).

### CONCLUSION

The Agency's final decision dismissing the formal complaint is AFFIRMED for the reasons discussed above.

### 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)

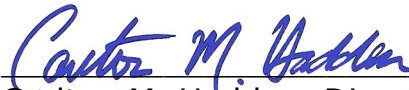
You have the right to file a civil action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision. If you file a civil action, you must name as the defendant in the complaint the person who is the official Agency head or department 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

January 8, 2025

Date