



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

[REDACTED]
Winfred H,¹
Complainant,

v.

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

Request No. 2024004322

Appeal No. 2024002059

Hearing No. 510-2023-00291X

Agency No. 1I-358-0014-23

DECISION ON REQUEST FOR RECONSIDERATION

Complainant timely requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in EEOC Appeal No. 2024002059 (June 13, 2024).

ISSUE PRESENTED

Whether Complainant's request for reconsideration of EEOC Appeal No. 2024002059 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 Tractor Trailer Operator, P-08, at the Agency's Tampa Processing and Distribution Center in Tampa, Florida.

On August 21, 2023, Complainant filed his complaint alleging discriminatory harassment in reprisal for prior EEO activity by his supervisors/management from July 30, 2022, to January 17, 2023, including his being placed on Emergency Placement on August 15, 2022. On August 31, 2023, the Agency issued a final Agency decision, via mail, dismissing the complaint as untimely filed pursuant to 29 C.F.R. § 1614.107(a)(2). Specifically, the Agency stated that Complainant received a notice of final interview, including his right to file a formal complaint, via mail, on July 26, 2023. Complainant filed his complaint on August 21, 2023, which was beyond the 15-day time limit. The Agency also dismissed portions of the complaint on the alternative grounds of stating the same claims that were pending before the Agency pursuant to 29 C.F.R. § 1614.107(a)(1).

The record indicates that on September 18, 2023, Complainant requested a hearing by uploading a copy of the first page of the Agency's August 31, 2023 final decision in the EEOC Public Portal. On October 23, 2023, an EEOC Administrative Judge issued an Order of Dismissal for lack of jurisdiction because the Agency issued a final Agency decision on August 31, 2023. Complainant appealed.

In EEOC Appeal No. 2024002059, the Commission dismissed Complainant's appeal as untimely pursuant to 29 C.F.R. § 1614.403(c). We specifically noted that EEOC Regulation 29 C.F.R. § 1614.402 provides that appeals to the Commission must be filed within 30 calendar days after complainants receive notice of the Agency's decision. Here, Complainant received the Agency's August 31, 2023 final decision, at the latest on September 18, 2023, when he uploaded the decision in the EEOC Public Portal to request a hearing. The Agency's final decision explicitly informed Complainant of the time limits on his right to appeal. However, Complainant filed his appeal on February 5, 2024, which was beyond the 30-day time limit set by the regulations. We also noted that Complainant requesting a hearing did not toll the time limit to file an appeal. The instant request for reconsideration from Complainant followed.

CONTENTIONS ON REQUEST

Complainant offers little in the instant request other than submitting numerous exhibits purporting to show that he is a victim of unlawful discrimination. In its response, the Agency notes that the Commission's prior decision was correct and asks that Complainant's request be denied.

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 his 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. 2024002059 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

February 18, 2025
Date