



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

[REDACTED]
Earlie C,¹
Complainant,

v.

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

Appeal No. 2024004399

Agency No. 4B200014324

DECISION

Complainant timely appealed with the Equal Employment Opportunity Commission ("EEOC" or "Commission") from the Agency's June 21, 2024, dismissal of 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. and Section 501 of the Rehabilitation Act of 1973 ("Rehabilitation Act"), as amended, 29 U.S.C. § 791 et seq. For the reasons presented below, the Commission AFFIRMS the Agency's Final Decision dismissing Complainant's complaint.

ISSUE PRESENTED

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

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

At the time of events giving rise to this complaint, Complainant was employed by the Agency as a City Carrier, Q-01, for the Agency's TMP-Suitland Branch in Suitland Maryland.

On May 20, 2024, Complainant filed a Formal EEO Complaint alleging that the Agency subjected her to discrimination on the bases of sex (female, LBTQIA+), disability (not specified), and reprisal for prior protected EEO activity when:

Since March 13, 2024, Management failed to comply with arbitration settlement 142-SU-46-KH10-22 that made [Complainant] whole from a Letter of Removal dated September 19, 2023.

In her Formal EEO Complaint, Complainant framed her claims as follows:

Management placed me on a Removal [and] took me off the Rolls, [which] resulted in a debt being collected from my May 2023 tax return. A debt that included a settlement that states I am cleared of a 378.17. Management failed to comply with 142-Su-46-KH10-22 settlement arbitration. My credit score dropped drastically, my tax returns were taken, I have not been made whole.

According to the record, on September 19, 2022, Complainant was issued a Letter of Removal ("LOR"). She challenged the LOR through the Union's negotiated grievance process, and, on February 23, 2024, she entered into a pre-arbitration settlement agreement that, among other things reinstated her employment. The record contains a copy of the Agreement, and several notices issued by the Agency and the Department of Treasury, regarding repayment of employment-related debt (health care premiums and overdrawn annual and/or sick leave).

The Agency dismissed the matter pursuant to 29 C.F.R. § 1614.107(a)(1), for failure to state a claim. The Agency reasoned that Complainant's allegation constituted an impermissible collateral attack on another administrative process because it concerned a pre arbitration settlement agreement. The instant appeal followed.

CONTENTIONS ON APPEAL

Neither Complainant nor the Agency submitted a brief or statement in support of or in opposition to Complainant's 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

Under 29 C.F.R. § 1614.107(a)(1), an agency shall dismiss a complaint that fails to state a claim. The Commission has generally held that complaints involving other administrative proceedings, including those involving negotiated grievance procedures and related processes, do not state a claim within the meaning of its regulations. See Lingad v. United States Postal Serv., EEOC Request No. 05930106 (Jun. 23, 1994). Moreover, an employee cannot use the EEO complaint process to lodge a collateral attack on another forum's proceeding. "A claim that can be characterized as a collateral attack, by definition, involves a challenge to another forum's proceeding, such as the grievance process, the unemployment compensation process, or the workers' compensation process." See Id., Wills v. Dep't of Def., EEOC Req. No. 05970596 (Jul, 30, 1998), Kleinman v. United States Postal Serv., EEOC Request No. 05940585 (Sept. 22, 1994).

By asserting that "Management failed to comply with 142-Su-46-KH10-22 settlement arbitration...I have not been made whole," Complainant is essentially asking the Commission to interpret and enforce an agreement reached through the grievance process.

The Commission has previously held that “an employee may not use the EEO process to obtain compliance with a grievance settlement.” Harlan P. v. United States Postal Serv., EEOC Appeal No. 0120170928 (Apr. 18, 2017) citing Complainant v. Dep’t of Homeland Sec., EEOC Appeal No. 0120142347 (Nov. 5, 2014) (dismissing EEO complaint alleging that the Agency would not comply with a grievance decision as a collateral attack). If Complainant believes the Agency is in breach of this agreement, she should raise her concerns within the grievance process itself, not through the EEO process. Id. citing Wills v. Dep’t of Def., EEOC Req. No. 05970596 (July 30, 1998), see also, e.g. Alden G. v. United States Postal Serv., EEOC Appeal No. 2022000542 (Mar. 14, 2022) (noting that although employees of the United States Postal Service may raise the same issue in an EEO complaint and through the grievance process, a challenge to an agency's compliance with a settlement agreement arrived at through the grievance process fails to state a claim.)

Additionally, because Complainant emphasizes financial harm she incurred as a result of the alleged discrimination, the Commission clarifies that monetary disputes involving an agency of the United States government and any claimed debtor must be resolved through the provisions of the Debt Collection Act found under 31 U.S.C. 3711 et seq. See Lashawna C. v. United States Postal Serv., EEOC Appeal No. 0120170092 (Mar. 2, 2017).

CONCLUSION

Accordingly, the Agency's final decision dismissing Complainant's complaint 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

November 12, 2024
Date