



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. 2024004618

Appeal No. 2024002314

Agency No. 4J-481-0099-21

DECISION ON REQUEST FOR RECONSIDERATION

Complainant timely requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in EEOC Appeal No. 2024002314 (July 9, 2024). 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).

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.

ISSUE PRESENTED

The issue is whether Complainant's request for reconsideration of EEOC Appeal No. 20242314 meets the criteria detailed in 29 C.F.R. § 1614.405(c).

BACKGROUND

At the time of events giving rise to this complaint, Complainant worked as a Rural Carrier Associate at the Agency's Jackson Post Office in Jackson, Mississippi. Believing that the Agency subjected him to unlawful discrimination, Complainant contacted an EEO counselor. On May 4, 2021, Complainant and the Agency entered into a settlement agreement which provided, in relevant part, that:

1. Management will use best efforts to respond to leave requests in writing within 72 hours;
2. Management will require documentation to support a leave request either before or after the appointment;
3. Complainant will hand his leave requests to the supervisor on duty at the time of his submission.

By letter to the Agency dated January 17, 2023, Complainant alleged that the Agency was in breach of the settlement agreement. When the Agency failed to respond to Complainant's breach allegation, Complainant appealed to the Commission. While his appeal was pending, the Agency responded to the allegation of breach, finding that the settlement agreement was void due to a lack of consideration.

On appeal, the Commission rejected the Agency's determination that the settlement was void due to a lack of consideration but found that the record did not contain sufficient information as to whether or not the Agency was in compliance with the settlement. The Commission therefore remanded the claim to the Agency for a supplemental investigation into Complainant's allegation of breach. See Winfred H. v. U.S. Postal Serv., EEOC Appeal No. 2023002052 (June 29, 2023).

On November 6, 2023, the Agency issued a final decision finding that the agreement had not been breached. Complainant appealed, reiterating that the Agency had breached the settlement agreement.

The Commission affirmed the Agency's final decision finding that the Agency was not in breach of the settlement agreement, finding that management has substantially complied with the terms of the agreement. See Winfred H. v. U.S. Postal Serv., EEOC Appeal No. 2024002314 (July 9, 2024).

Complainant filed the instant request for reconsideration.

CONTENTIONS ON REQUEST FOR RECONSIDERATION

On appeal, Complainant insists that Agency management has "violated all of the EEOs," but did not provide any specifics as to his assertion, and reiterated that the Agency has breached the settlement agreement and seeks to have the settlement enforced.

In response, the Agency contends that Complainant is only reiterating the same arguments raised in his initial appeal and has not met the criteria required to grant a request for reconsideration.

ANALYSIS

We reject Complainant's arguments as they are largely repetitive of the arguments raised in his initial appeal and amount to little more than expressing his disagreement with the Commission's decision. We emphasize that a request for reconsideration is not a second appeal to the Commission. See Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO MD-110), Chap. 9, § VILA (Aug. 5, 2015). 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.

To the extent that Complainant's statement that management has "violated all of the EEOs" refers to any new incidents of alleged discrimination, new claims of discrimination cannot be raised in a request for reconsideration and Complainant must raise new claims of discrimination with an EEO counselor within 45 days from when he knew or should have known of the alleged discrimination. 29 C.F.R. § 1614.105(a)(1).

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. 2024002314 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 30, 2024
Date