



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

[REDACTED]
Rosina L.,¹
Complainant,

v.

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

Request No. 2024004965

Appeal No. 2023005060

Hearing No. 440-2020-00079X

Agency No. 6U-000-0006-21

DECISION ON REQUEST FOR RECONSIDERATION

Complainant requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in Rosina L. v. U.S. Postal Service, EEOC Appeal No. 2023005060 (July 30, 2024).

ISSUE PRESENTED

Whether Complainant's request for reconsideration of EEOC Appeal No. 2023005060 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

At the time of events giving rise to this complaint, Complainant worked as a Senior Field Sales Representative at the Agency's Sales – Chicago Main Post Office in Chicago, Illinois.

On May 19, 2021, Complainant filed an EEO complaint (Agency No. 6U-000-0011-19) alleging that the Agency discriminated against her on the bases of sex (sexual orientation), disability (anxiety, depression, Post Traumatic Stress Disorder (PTSD)) and in reprisal for prior protected EEO activity in a series of seven claims alleging: two denials of detail requests; the Manager attempted to intimidate her; the Manager provided false information to a former manager which resulted in her receiving poor performance evaluations; she was not selected for a position; the Manager refused to provide her with information she requested for an application; and the Manager rejected some of her sales.

Complainant filed another EEO complaint (Agency No. 6U-000-0006-21) alleging that the Agency discriminated against her on the bases of sex (female), disability (anxiety, depression, PTSD), age (over 40), and in reprisal for prior protected EEO activity in a series of six claims alleging: a reasonable accommodation request being ignored; being issued a Proposed Letter of Warning, which was later upheld; having sales submissions rejected; leave requests denied; management manipulating her performance to seem negative; and being issued a Notice of an Interview.

Following the investigations, Complainant timely requested a hearing on both complaints. The two cases were consolidated before the AJ and over Complainant's objections, the AJ granted the Agency's motion for a decision without a hearing and issued a decision without a hearing on July 27, 2023. The AJ found that there were no genuine issues of material fact in dispute, the Agency articulated legitimate, nondiscriminatory reasons for its actions, and Complainant offered no evidence beyond her own subjective beliefs to support her claims of discriminatory or retaliatory animus. The AJ further found that the alleged acts of harassment were all routine workplace occurrences such as supervisory instructions and admonishments that were not sufficiently severe or pervasive to constitute unlawful harassment. The Agency subsequently issued a final order adopting the AJ's finding that Complainant failed to prove that the Agency subjected her to discrimination as alleged.

Complainant appealed the Agency's final order to the Commission, arguing that the Agency's motion for summary judgment was untimely and therefore should have never been reviewed by the AJ. She also argued that the Agency subjected her to a hostile work environment.

In EEOC Appeal No. 2023005060 (July 30, 2024), the Commission determined that the AJ properly issued a decision without a hearing and concluded that the Agency's motion for summary judgment was indeed timely. Ultimately, the Commission determined that Complainant failed to establish that any of the Agency's reasons were pretext for discrimination. Lastly, the Commission determined that Complainant failed to demonstrate that the common workplace occurrences rose to a level of actionable harassment.

The instant request followed.

CONTENTIONS ON REQUEST

In requesting reconsideration, Complainant reiterates that the Agency's motion for summary judgment was untimely and therefore should have never been reviewed by the AJ. Complainant also asserts that the appellate decision clearly glossed over material facts that are in dispute and should have been fully investigated during a hearing. Lastly, Complainant asserts that the appellate decision involved clearly erroneous interpretation of material fact or law, and has a substantial impact on the policies, practices, or operations of the Agency. In Complainant's reconsideration briefs, she also largely reiterates the same contentions that she previously raised, including a request for the Commission to reconsider the previously dismissed claims.

In response, the Agency asserts that Complainant failed to present any argument or evidence showing that the appellate decision involved a clearly erroneous interpretation of material fact or law, or that appellate decision would have a substantial impact on the policies, practices, or operations of the agency. The Agency requests that the Commission uphold its prior decision finding no discrimination.

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 various arguments raised by Complainant in the instant request for reconsideration. However, we can find no basis to disturb the Commission's prior decision, as Complainant largely presents contentions that were previously raised and considered. The Commission emphasizes that a request for reconsideration is not a second appeal. 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.

CONCLUSION

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. 2023005060 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)

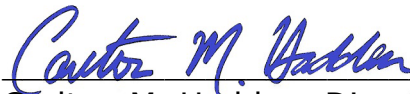
This decision of the Commission is final, and there is no further right of administrative appeal from the Commission's decision. You have the right to file a civil action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision. 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

January 15, 2025

Date