



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

[REDACTED]  
Phillis W.,<sup>1</sup>  
Complainant,

v.

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

Appeal No. 2024005081

Agency No. 1F-341-0293-24

DECISION

Complainant filed an appeal with the Equal Employment Opportunity Commission (EEOC or Commission) from the Agency's decision dated September 9, 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 set forth herein, we REVERSE the Agency's final decision and REMAND this matter for further processing.

ISSUE PRESENTED

Whether the Agency properly dismissed the complaint, pursuant to 29 C.F.R. § 1614.107(a)(2), as untimely filed.

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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.

### BACKGROUND

At the time of events giving rise to this complaint, Complainant worked as a Manager, Distribution Operations at the Agency's Springfield Processing and Distribution Center facility in Springfield, Illinois.

Believing that the Agency subjected her to discrimination, Complainant initiated EEO contact on May 14, 2024. Following pre-complaint processing, the Agency issued Complainant the requisite Notice of Right to File Individual Complaint of Discrimination (Notice) and notified her that she had 15 days from the date of receipt of the letter to file a formal EEO complaint. The Agency mailed the Notice to Complainant on July 15, 2024, to Complainant's address of record in Decatur, Illinois, via Priority Mail with signature confirmation. Complainant picked up the Notice at the post office on July 24, 2024, and signed for it under her name. On July 24, 2024, the Agency resent the Notice to Complainant, this time, to Complainant's address of record in Springfield, Illinois. Complainant received and signed for the notice on July 27, 2024.

Complainant subsequently filed her formal EEO complaint on August 9, 2024, alleging that the Agency subjected her to discrimination on the bases of race (Black), color (Not Specified), and in reprisal for prior protected EEO activity when on or around May 13, 2024, Complainant was harassed and targeted by management on several occasions, her character was defamed, and she was put on a list to be investigated for something that had nothing to do with the post office.

The Agency ultimately dismissed the complaint for failure to timely file the formal complaint. In doing so, the Agency explained that the Notice was delivered on July 24, 2024, but Complainant did not file the complaint until August 9, 2024, which was beyond the 15-day limit to file a complaint. The Agency noted that Complainant previously, successfully utilized the complaint process and, as a result, was deemed to have constructive knowledge of the procedures and timeframes involved.

### CONTENTIONS ON APPEAL

Complainant contends that the Agency relied on incorrect tracking information when determining that the complaint was untimely. The Agency did not provide a response to the 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. Dep't of the Treas., 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

The regulation set forth at 29 C.F.R. § 1614.107(a)(2) provides, in relevant part, that an agency shall dismiss a complaint that fails to comply with the applicable time limits, unless the agency extends the time limits in accordance with 29 C.F.R. § 1614.604(f), which states these time limits are subject to waiver, estoppel and equitable tolling. A formal "complaint must be filed within 15 days of receipt of the notice required by § 1614.105 (d), (e) or (f)." 29 C.F.R. § 1614.106(b).

Here, the record discloses that Complainant received a Notice of Right to File a Formal Complaint (Notice) on July 24, 2024. Specifically, tracking information associated with the shipping label identified in the Notice and accompanying documentation reveals that Complainant retrieved the package from the post office on July 24, 2024, and signed for it under her name. However, the record also reveals that the Agency sent an additional Notice on July 24, 2024, which Complainant received on July 27, 2024.

Upon review, we find that the Agency's second Notice superseded the first Notice in terms of determining the timeliness of the formal complaint. Thus, we find that Complainant's August 9, 2024, formal complaint was within the 15-day time limit. See Regina M. v. Dep't of the Navy, EEOC Appeal No. 2024003156 (Dec. 2, 2024), citing Middleton v. Dep't of Vet. Affs, EEOC Appeal No. 0120103021 (Nov. 12, 2010) (reversing the agency's dismissal where the agency sent complainant a second notice which superseded a prior notice); see also King v. Dep't of the Interior, EEOC Appeal No. 01A21908 (June 19, 2002,) (finding that a second notice superseded a first notice in terms of determining timeliness).

Therefore, the Commission finds that Complainant's complaint was improperly dismissed pursuant to 29 C.F.R. §1614.107(a)(2).

### CONCLUSION

Accordingly, the Agency's final decision dismissing Complainant's complaint is REVERSED and the complaint is REMANDED for further processing in accordance with the Order below.

### ORDER

The Agency is ordered to process the remanded claim in accordance with 29 C.F.R. § 1614.108. The Agency shall acknowledge to the Complainant that it has received the remanded claim **within thirty (30) calendar days** of the date this decision was issued. The Agency shall issue to Complainant a copy of the investigative file and also shall notify Complainant of the appropriate rights **within one hundred fifty (150) calendar days** of the date this decision was issued, unless the matter is otherwise resolved prior to that time. If the Complainant requests a final decision without a hearing, the Agency shall issue a final decision **within sixty (60) days** of receipt of Complainant's request.

As provided in the statement entitled "Implementation of the Commission's Decision," the Agency must send to the Compliance Officer: 1) a copy of the Agency's letter of acknowledgment to Complainant, 2) a copy of the Agency's notice that transmits the investigative file and notice of rights, and 3) either a copy of the complainant's request for a hearing, or a copy of the final agency decision ("FAD") if Complainant does not request a hearing

### IMPLEMENTATION OF THE COMMISSION'S DECISION (K0719)

Under 29 C.F.R. § 1614.405(c) and § 1614.502, compliance with the Commission's corrective action is mandatory. Within seven (7) calendar days of the completion of each ordered corrective action, the Agency shall submit via the Federal Sector EEO Portal (FedSEP) supporting documents in the digital format required by the Commission, referencing the compliance docket number under which compliance was being monitored. Once all compliance is complete, the Agency shall submit via FedSEP a final compliance report in the digital format required by the Commission. See 29 C.F.R. § 1614.403(g).

The Agency's final report must contain supporting documentation when previously not uploaded, and the Agency must send a copy of all submissions to the Complainant and his/her representative.

If the Agency does not comply with the Commission's order, the Complainant may petition the Commission for enforcement of the order. 29 C.F.R. § 1614.503(a). The Complainant also has the right to file a civil action to enforce compliance with the Commission's order prior to or following an administrative petition for enforcement. See 29 C.F.R. §§ 1614.407, 1614.408, and 29 C.F.R. § 1614.503(g). Alternatively, the Complainant has the right to file a civil action on the underlying complaint in accordance with the paragraph below entitled "Right to File a Civil Action." 29 C.F.R. §§ 1614.407 and 1614.408. A civil action for enforcement or a civil action on the underlying complaint is subject to the deadline stated in 42 U.S.C. 2000e-16(c) (1994 & Supp. IV 1999). **If the Complainant files a civil action, the administrative processing of the complaint, including any petition for enforcement, will be terminated.** See 29 C.F.R. § 1614.409.

Failure by an agency to either file a compliance report or implement any of the orders set forth in this decision, without good cause shown, may result in the referral of this matter to the Office of Special Counsel pursuant to 29 C.F.R. § 1614.503(f) for enforcement by that agency.

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 (R0124)

This is a decision requiring the Agency to continue its administrative processing of your complaint. However, if you wish to file a civil action, you have the right to file such action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision. In the alternative, you may file a civil action **after one hundred and eighty (180) calendar days** of the date you filed your complaint with the Agency or filed your appeal with the Commission. 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. **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:



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Carlton M. Hadden, Director  
Office of Federal Operations

February 12, 2025

Date