



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

[REDACTED]
Samuel R,¹
Complainant,

v.

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

Appeal No. 2024005165

Agency No. 6U-540-0004-24

DECISION

Complainant filed a timely appeal with the Equal Employment Opportunity Commission (EEOC or Commission) from the Agency's decision dated August 16, 2024, dismissing his 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. Upon review, the Commission finds that Complainant's complaint was properly dismissed pursuant to 29 C.F.R. § 1614.107(a)(2), due to the untimely filing of the formal complaint.

ISSUES PRESENTED

Whether Complainant timely filed formal his EEO complaint pursuant to 29 C.F.R. §1614.107(a)(2), or the Agency rightfully dismissed based on untimeliness.

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 Territory Representative at the Agency's City of Industry Post Office facility in City of Industry, CA. On July 13, 2024, Complainant filed a formal complaint alleging that the Agency subjected him to discrimination on the basis of race (Asian) when:

1. On February 23 & 24, 2024, Complainant's manager called multiple times while he was home recovering from COVID-19, including telling him that he was AWOL.
2. On May 16, 2024, Complainant was issued a Letter of Warning in Lieu of a 14-Day Suspension.

The Agency dismissed the matter pursuant to 29 C.F.R. § 1614.107(a)(2), due to the untimely filing of the formal complaint. The Agency found the Notice of Right to File was delivered with Complainant's signature confirmation on June 15, 2024, and Complainant filed a formal complaint on July 13, 2025, twenty-eight days from date of receipt.

CONTENTIONS ON APPEAL

On Appeal, Complainant does not provide further details regarding the filing of his formal complaint. Complainant states that he did not sign for the envelope containing the "Dismissal of Formal EEO Complaint" letter. He states he did not have sufficient time to respond to the dismissal letter but provides no clarification on the issue presented on 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. §1614.106(b), a complainant must file their written complaint with the agency that allegedly discriminated against them within 15 calendar days after the date of receipt of the "Notice of Right to File an Individual Complaint". In relevant part, 29 C.F.R. §1614.107(a)(2) provides that an agency shall dismiss a complaint or a portion of a complaint that fails to comply with the applicable time limits contained in §1614.106. However, the 15-day time limit is subject to waiver, estoppel, and equitable tolling pursuant to 29 C.F.R. § 1614.604(c).

The record reflects that Complainant received the notice of right to file a formal complaint on June 15, 2024. The record provides receipt of the Complainant receiving the notice of right to file on said date, with USPS receipt including signed confirmation. The final interview letter, included with the notice of right to file, properly put Complainant on notice:

"If you opt to file a formal complaint, you have 15 days from the date of receipt of this letter to file a timely formal complaint. Your complaint could be subject to dismissal in accordance with 29 CFR §1614.107 if not filed within the 15 day time limit."

As detailed in the Agency's final order, Complainant had until July 1, 2024 to file his complaint. Although the notice indicated that Complainant had to file a formal complaint within fifteen (15) calendar days of its receipt, Complainant did not file his formal complaint until July 13, 2024, which is beyond the limitation period. On appeal, Complainant has not offered adequate justification to warrant an extension of the time limit for filing the complaint.

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

February 19, 2025

Date