



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

████████████████████
Anglea R.,¹
Complainant,

v.

Megan J. Brennan,
Postmaster General,
United States Postal Service
(Western Area),
Agency.

Appeal No. 2019002834

Agency No. 4F-913-0067-18

DECISION

Complainant filed a timely appeal with the Equal Employment Opportunity Commission (EEOC or Commission) from an Agency final decision, dated January 16, 2019, finding that it was in compliance with the terms of a May 16, 2018 settlement agreement. See 29 C.F.R. § 1614.402; 29 C.F.R. § 1614.504(b); and 29 C.F.R. § 1614.405.

BACKGROUND

During the relevant time, Complainant worked for the Agency in Monrovia, California. Believing that the Agency subjected her to unlawful discrimination, Complainant contacted an Agency EEO Counselor to initiate the EEO complaint process.

On May 16, 2018, Complainant and the Agency entered into a settlement agreement to resolve the matter. The settlement agreement provided, in pertinent part, that:

- (1) Management will send me to window services training. I will start training on Monday 5/21/18. After the 40 hours of training, I will work at Tujung for 40 hours of OJI training.

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.

- (2) The letter of warning, dated 2/24/18, will be rescinded and removed from all records (4E-322-18-D).
- (3) [Person C] apologized for the clapping and I am rescinding the grievance 4E-352-18-C.
- (4) Grievance 4E-275-18-C is being rescinded because I was talking to the PM.

On December 16, 2018, Complainant contacted the EEO office, and made reference to the May 16, 2018 agreement. Complainant claimed that “I was suppose[d] to receive window training and then be able to fulfill my hours with window work. That happened until the end of July 2018 and then they quit working me on the window.” Additionally, she asserted that the Agency: denied her 8 hours of work, did not accommodate her restrictions, started her later than her regular start time, and made her an on-call employee.

In its January 16, 2019 decision, the Agency found no breach. The Agency found that Complainant completed window training and forty hours of on-the-job training. The Agency acknowledged that while Complainant worked the window in a few offices on an “as needed” basis, but thereafter there was no longer work available. The Agency reasoned that the settlement does not state that Complainant will be given 40 hours of work. Finally, the Agency noted Complainant’s new complaint (Agency Case No. 4F-913-0026-19), which is currently being processed, includes her claim of insufficient work hours.

Complainant filed the instant appeal. On appeal, she contends that window assistance work is available and that she is not working her route to the “full extent of my medical restrictions. I can do 85% . . . but I am only doing 60%.”

ANALYSIS

EEOC Regulation 29 C.F.R. § 1614.504(a) provides that any settlement agreement knowingly and voluntarily agreed to by the parties, reached at any stage of the complaint process, shall be binding on both parties. The Commission has held that a settlement agreement constitutes a contract between the employee and the Agency, to which ordinary rules of contract construction apply. See Herrington v. Dep’t of Def., EEOC Request No. 05960032 (December 9, 1996). The Commission has further held that it is the intent of the parties as expressed in the contract, not some unexpressed intention, that controls the contract’s construction. See Eggleston v. Dep’t of Veterans Affairs, EEOC Request No. 05900795 (August 23, 1990). In ascertaining the intent of the parties with regard to the terms of a settlement agreement, the Commission has generally relied on the plain meaning rule. See Hyon O v. U.S. Postal Serv., EEOC Request No. 05910787 (December 2, 1991). This rule states that if the writing appears to be plain and unambiguous on its face, its meaning must be determined from the four corners of the instrument without resort to extrinsic evidence of any nature. See Montgomery Elevator Co. v. Building Eng’g Servs. Co., 730 F.2d 377 (5th Cir. 1984).

The parties' May 16, 2018 settlement agreement required the Agency to provide forty hours of window service training and forty hours of on-the-job training at Tujunga. Complainant does not dispute the Agency's assertion that this training was provided. Instead, she asserts that she has not been provided full-time work. This expectation was not memorialized, however, in the subject settlement agreement. While Complainant referenced the agreement in her contact with the EEO office, her concerns should be treated as a new EEO complaint. According to the Agency, her concerns are being addressed in a new complaint (Case No. 4F-913-0026-19). The Agency's finding of no breach was proper.

CONCLUSION

The Agency's decision finding no breach of the May 16, 2018 settlement agreement is **AFFIRMED**.

STATEMENT OF RIGHTS - ON APPEAL

RECONSIDERATION (M0617)

The Commission may, in its discretion, reconsider the decision in this case if the Complainant or the Agency submits a written request containing arguments or evidence which 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 to reconsider, with supporting statement or brief, must be filed with the Office of Federal Operations (OFO) **within thirty (30) calendar days** of receipt of this decision. A party shall have **twenty (20) calendar days** of receipt of another party's timely request for reconsideration in 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). All requests and arguments must be submitted to the Director, Office of Federal Operations, Equal Employment Opportunity Commission. Complainant's request may be submitted via regular mail to P.O. Box 77960, Washington, DC 20013, or by certified mail to 131 M Street, NE, Washington, DC 20507. In the absence of a legible postmark, the request to reconsider shall be deemed timely filed if it is received by mail within five days of the expiration of the applicable filing period. See 29 C.F.R. § 1614.604. The agency's request must be submitted in digital format via the EEOC's Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g). The request or opposition must also include proof of service on the other party.

Failure to file within the time period will result in dismissal of your request for reconsideration as untimely, unless extenuating circumstances prevented the timely filing of the request.

Any supporting documentation must be submitted with your 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(c).

COMPLAINANT’S RIGHT TO FILE A CIVIL ACTION (S0610)

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 his or her 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

January 29, 2020

Date