



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

[REDACTED]
Kathlyn K.,¹
Complainant,

v.

Louis DeJoy,
Postmaster General,
United States Postal Service
(Western Area),
Agency.

Request No. 2020005400

Appeal No. 2020000357

Hearing No. 541-2017-00198X

Agency No. 4E-800-0057-17

DECISION ON REQUEST FOR RECONSIDERATION

Complainant requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in Kathlyn K. v. U.S. Postal Service, EEOC Appeal No. 2020000357 (Aug. 20, 2020). 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).

At the time of events giving rise to this complaint, Complainant worked as a Full-time Rural Carrier at the Agency's Parker Post Office in Parker, Colorado.

On May 23, 2017, Complainant filed an EEO complaint alleging harassment based on race, sex, age, and in reprisal for prior protected EEO activity when:

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.

1. On May 31, 2016 and June 23, 2016, Complainant was subjected to Investigative Interviews regarding an email her son sent to the Postmaster General.
2. On November 11, 2016, Complainant was subjected to an Investigative Interview regarding a letter she gave to her customers.
3. On December 2, 2016, Complainant was subjected to an Investigative Interview regarding a complaint letter from one of her customers.
4. On December 9, 2016, Complainant received a Letter of Warning for Failure to Follow Instructions and Inappropriate Conduct.
5. On December 10, 2016 and ongoing, management insisted that Complainant deliver to an address that is often blocked by customer vehicles and presents a safety hazard.
6. On December 10, 2016, and ongoing, including March 7, 2017; June 7, 2017; June 10, 2017; and June 14, 2017, management has accused Complainant of misdelivering packages.
7. On December 23, 2016, Complainant's substitute carrier did not scan vacation holds.
8. On December 23, 2016, Complainant's Postmaster ripped paperwork on an Express package out of her hands and said, "you don't need that".
9. On December 30, 2016, Complainant was mandated to work overtime.
10. On December 30, 2016, Complainant was subjected to an Investigative Interview.
11. On January 12, 2017, Complainant was issued a 7-day No-time-off Suspension for Failure to Follow Instructions resulting in Unsatisfactory Performance.
12. On March 15, 2017, Complainant reported mis-deliveries of mail to her Supervisor and Postmaster and nothing was done.
13. On May 2, 2017, Complainant's Postmaster tried to get her to sign a document that she believed was incorrect, yelled at her, and threatened to subject her to an Investigative Interview.
14. On May 11, 2017, Complainant's Postmaster questioned her about putting a rubber band on a parcel, putting parcels on porches, and being rude to customers.
15. On June 1, 2017, Complainant was subjected to an Investigative Interview regarding several complaint letters received from customers.

16. On June 1, 2017, Complainant's Postmaster yelled at her about not delivering a package and threatened to put her on Emergency Leave if she did not leave the building immediately.

17. On June 29, 2017, Complainant was issued a 14-day Suspension.

The Agency issued a decision finding that Complainant failed to prove that she was subjected to discrimination as alleged. Complainant appealed, and the Commission's prior decision affirmed the Agency's decision.

In her request, Complainant provides no evidence to warrant granting her request. The Commission emphasizes that a request for reconsideration is not a second appeal to the Commission. Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO MD-110) (Aug. 5, 2015), at 9-18; *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.

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. 2020000357 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 (P0610)

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 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.

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

November 18, 2020

Date