



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

[REDACTED]  
Camie B.,<sup>1</sup>  
Complainant,

v.

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

Appeal No. 2020004464

Agency No. 4J-606-0173-19

**DECISION**

Complainant filed a timely appeal with the Equal Employment Opportunity Commission (EEOC or Commission) from an Agency decision, dated May 15, 2020, finding that it complied with the terms of a September 18, 2019 settlement agreement. The Commission accepts the appeal. 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 as a Full-time Mail Handler at the Agency's International Service Center in Chicago, Illinois. In late May 2019, Complainant made a written request to change from a Full-time Mail Handler position (hereinafter "Handler") to a Full-time Mail Processing Clerk (hereinafter "Clerk").<sup>2</sup> When no action was taken on the request, she spoke with the Plant Manager and submitted a written request for the change directly to him. On July 31, 2019, the Plant Manager approved the request.

Approximately a month later, when the paperwork required to effectuate the change was still not completed, Complainant contacted an EEO Counselor.

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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.

<sup>2</sup> The move entailed a change in crafts, from the Mail Handler Craft to the Clerk Craft, which are under different bargaining units and unions.

On September 18, 2019, Complainant and the Agency entered into a settlement agreement to resolve the matter. The September 18, 2019 settlement agreement provided, in pertinent part, that:

Complainant's request for a change of craft to Full-time Mail processing Clerk is approved and will be sent to the Human Resources Shared Services Center (HRSSC) for processing within seven business days from the signing of this settlement agreement by the management representative designated below. No other consideration is included in this settlement agreement and none will be implied. Nothing follows.

HRSSC acknowledged receipt of the approved request on September 27, 2019. However, in the weeks that followed, Complainant repeatedly contacted the EEO office alleging breach of the agreement because she had not yet been placed in the Clerk craft. The processing was completed on November 14, 2019, and days later Complainant was instructed to report to duty as a Clerk.<sup>3</sup>

Thereafter, Complainant filed a grievance (#1919VN) seeking back pay for the delay in processing. While investigating her grievance claim, the Union discovered that the Agency violated the Collective Bargaining Agreement (CBA) and Memorandum of Understanding (MOU) by improperly reassigning Complainant to the Clerk Craft position. The Union and the Agency resolved the contractual violation by reaching a separate agreement, on February 13, 2020, whereby the Agency would return Complainant to her Mail Handler position.<sup>4</sup> Effective February 29, 2020, Complainant was returned to her Full-time Mail Handler position.

By letter to the Agency dated April 4, 2020, Complainant alleged that the return to her Handler position was a violation of the September 18, 2019 settlement agreement. Complainant asserted that the Agency acted in bad faith, knowing that any agreement needed to comply with the CBA.

In its May 15, 2020 decision, the Agency determined that the settlement agreement violated the CBA and that, in such circumstances, the agreement is void and the underlying complaint reinstated. The Agency rejected Complainant's assertion that it acted in bad faith. Neither Complainant nor the HR Manager designated to sign for the Agency were aware that the agreement violated the CBA. Instead, they believed that when the Plant Manager approved Complainant's request he had completed the necessary reviews and obtained the required approvals. The Agency concluded that the error was based on mutual mistake. Complainant's EEO complaint was to be reinstated.

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<sup>3</sup> Complainant withdrew her breach allegation.

<sup>4</sup> Additionally, the agreement provided that Complainant's "request for reassignment will be considered in the list of reassignment/transfer applications for the Chicago ISC with a date of May 21, 2019. That will rank her request at #33 on the list to be considered as of this date."

Complainant filed the instant appeal. On appeal, Complainant argues that what occurred was not mutual mistake but rather bad faith by the Agency. Complainant disputes the Agency's belief that the experienced HR Manager was unaware the agreement would violate the CBA. Further, she contends that Agency officials could have found the error earlier, when she contacted the EEO office in November 2019, seeking compliance with the agreement, and before she was placed in the Clerk Craft. Complainant argues that she was in no way responsible for the breach and the Agency should be held accountable.

### 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. 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).

Although settlement agreements are binding on the parties, the Commission has previously held that an Agency may not specifically perform on the agreement where it is later determined that the agreement's terms violate a collective bargaining agreement. See Pyles v. United States Postal Service, EEOC Request No. 05920044 (April 22, 1992). Where a settlement agreement violates the CBA, the Agency must reinstate Complainant's complaint from the point processing ceased. See id.

Here, although the record does not contain a copy of the CBA, the record does include a February 21, 2020 letter from the Union to Complainant describing the violation, as well as a copy of the February 13, 2020 agreement entered by the Union and the Agency to resolve the CBA violation. Therefore, we find sufficient evidence to support the Agency's determination that the September 18, 2019 agreement violated the CBA. The proper remedy, as noted above, it to reinstate Complainant's EEO complaint from the point processing ceased.

Finally, we agree with Complainant's following assertion: "the truth of the matter is the Agency failed to take the required steps to comply with provisions of the CBA . . ." Complainant's frustration is justified.

We remind the Agency that, over the years, it has been *repeatedly* warned by the Commission regarding its failure to have Labor Relations personnel review settlement agreement in order to avoid conflicts with CBAs. See Iglesias v. U. S. Postal Serv., EEOC Request No. 0520110503 (Mar. 30, 2012); Rathbone v. U.S. Postal Serv., EEOC Request No. 05910050 (Mar. 7, 1991).

### CONCLUSION

The Agency's decision, finding the settlement agreement is void and reinstating Complainant's complaint, is hereby **AFFIRMED**.

### STATEMENT OF RIGHTS - ON APPEAL

#### RECONSIDERATION (M0920)

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 his or her request for reconsideration, and any statement or brief in support of his or her request, via the EEOC Public Portal, which can be found at <https://publicportal.eeoc.gov/Portal/Login.aspx>

Alternatively, Complainant can submit his or her 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 his or her 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(c).

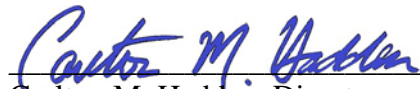
#### COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (S0610)

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:

  
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Carlton M. Hadden, Director  
Office of Federal Operations

March 2, 2021  
Date