



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

**Office of Federal Operations**

**P.O. Box 77960**

**Washington, DC 20013**

[REDACTED]

Stella K.,<sup>1</sup>  
Complainant,

v.

Gina M. Raimondo,  
Secretary,  
Department of Commerce,  
Agency.

Appeal No. 2023003570

Agency No. 63-2023-00089

**DECISION**

Complainant filed an appeal with the Equal Employment Opportunity Commission (EEOC or Commission) from the Agency's decision dated April 26, 2023, dismissing her complaint alleging 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., Section 501 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended, 29 U.S.C. § 791 et seq., and the Age Discrimination in Employment Act of 1967 (ADEA), as amended, 29 U.S.C. § 621 et seq.

**BACKGROUND**

During the relevant time, Complainant was an applicant for Agency employment in Atlanta, Georgia.

On March 24, 2023, Complainant filed a formal complaint alleging that the Agency subjected her to discrimination based on race, disability, and age when a Human Resources (HR) Specialist did not provide Complainant with a manager's contact information regarding a position Complainant applied for and was referred to by HR.

On March 30, 2023, the Agency mailed Complainant a Request for Information. The Agency asserted Complainant failed to complete part of the formal complaint, specifically the instruction to "describe the action(s) or policy(ies) you believe was (were) discriminatory...(b)e specific and

---

<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.

**include dates.”** The Request for Information informed Complainant she had fifteen calendar days to submit a response. If Complainant failed to respond or did not provide sufficient information, the Agency advised it may dismiss her complaint.

On April 26, 2023, the Agency issued a final decision dismissing the complaint pursuant to 29 C.F.R. § 1614.107(a)(7). The Agency found that Complainant failed to respond to its March 30, 2023, Request for Information sent via certified mail, which was received at Complainant's address and signed for on April 3, 2023. The Agency found because of Complainant's failure to respond to a written request to provide relevant information, there is not sufficient information in the record to be able to define the complaint's claims and accept such claims for investigation.

Complainant filed the instant appeal. On appeal, Complainant argues she never received the Agency's Request for Information and never signed for any mailings. Complainant submits documentation showing that upon learning of the missing mailing, she inquired with the mail carrier/residential building management about the Agency's package. Complainant maintained she did not sign for the package and building management misplaced it, telling her it was returned to sender. Complainant thereafter learned on April 28, 2023, the package was placed in an incorrect letter box. Complainant received the Request for Information on May 1, 2023, and submitted requested information to her EEO Counselor per the Agency's request.

### ANALYSIS AND FINDINGS

EEOC Regulation 29 C.F.R. § 1614.107(a)(7) provides, in relevant part, that the Agency shall dismiss an entire complaint where the Agency has provided Complainant with a written request to provide relevant information or otherwise proceed with the complaint, and Complainant has failed to respond to the request within 15 days of its receipt or Complainant's response does not address the Agency's request, provided that the request included a notice of the proposed dismissal. Instead of dismissing for failure to cooperate, the complaint may be adjudicated if sufficient information for that purpose is available.

Here, the Agency provided Complainant with a written request to provide relevant information or otherwise proceed with the complaint, and Complainant did not respond to the request within 15 days of its receipt. We are persuaded that Complainant has provided a sufficient reason for failing to respond to the Agency's Request for Information dated March 30, 2023. Complainant alleged she did not sign for the Agency's missing Request for Information and an inquiry with her building management stated they could not ascertain the identity of the party who signed for the package as the video surveillance was unavailable. Moreover, a review of Complainant's EEO documents show Complainant was making efforts to cooperate with the EEO Counselor, who noted various dates of alleged discriminatory incidents in the reports. Complainant submitted the requested information to her EEO Counselor upon learning of the Agency's request on May 1, 2023. Given the specific circumstances of this case, we will provide Complainant with an added opportunity to clarify her claims, with details regarding any purported discrimination regarding the Agency hiring process.

### CONCLUSION

We REVERSE the final Agency decision dismissing the formal EEO complaint. The formal complaint is REMANDED to the Agency for further processing in accordance with the ORDER below.

### ORDER

The Agency is ORDERED take the following actions following actions:

1. Within **fifteen (15) calendar days** of the date of the issuance of this decision, the Agency shall provide Complainant with a written request to clarify the claims in her complaint, including specific dates of alleged discrimination, any job positions at issue, and the precise nature of any alleged discriminatory actions by Agency officials regarding her pursuit of an Agency position. Complainant, in turn, shall be provided with **fifteen (15) calendar** days from receipt of the Agency's request to submit her clarification of her claims.
2. Thereafter, the Agency shall issue Complainant either a letter accepting the complaint for investigation or a final decision dismissing the complaint with appeal rights to this Commission.

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 request for clarification, and 2) a copy of the Agency's acceptance letter or final decision dismissing the complaint.

### 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 (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).

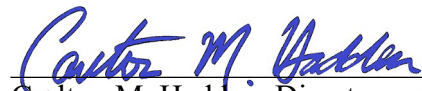
COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (R0610)

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 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. **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

September 18, 2023  
Date