

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

ROBERTA Y. STEELE

PLAINTIFF

v.

CIVIL ACTION NO. 3:11-CV-124-S

PATRICK R. DONAHOE, POSTMASTER GENERAL
UNITED STATES POSTAL SERVICE

DEFENDANT

MEMORANDUM OPINION

This matter is before the court on motion of the plaintiff, Roberta Y. Steele (“Plaintiff”), to set aside the judgment of this court (DN 9), granting the motion of the defendant, Patrick R. Donahoe, Postmaster General, United States Postal Service (“Defendant”), to dismiss Plaintiff’s complaint, or in the alternative, for summary judgment (DN 7). For the following reasons, the motion will be denied.

No factual evidence in the developed record disputes any fact this court found from the Equal Employment Opportunity Commission’s (“EEOC”) decision and the affidavits submitted. Plaintiff’s objection states that Plaintiff did not specifically request morning hours when she requested extra hours from her employer and that she was not asked whether she was available to work later hours. Plaintiff asserts this fact would demonstrate that Plaintiff was similarly situated to other employees granted extra hours. Plaintiff further argues this fact would prove Defendant’s legitimate, non-discriminatory reason for not granting Plaintiff the extra hours she requested, namely that she was not needed during the hours she was available, is a pretext for discrimination. However, no factual evidence in the record supports the position Plaintiff takes now.

This court having reviewed the memorandum opinion and order entered October 8, 2011 and consulted the objection filed thereto, concludes that Plaintiff's motion to set aside the judgment should be denied. An order consistent with this opinion will be entered this date.

October 28, 2011

A handwritten signature in black ink is written over a circular seal. The seal features an eagle with wings spread, perched on a shield, with the words "UNITED STATES DISTRICT COURT" around the perimeter. The signature is a cursive, stylized "CS" followed by a long horizontal stroke.

**Charles R. Simpson III, Judge
United States District Court**