UNITED STATES MERIT SYSTEMS PROTECTION BOARD

Ann Murray v. National Aeronautics and Space Administration

Murray, 2026 MSPB 4 (United States Merit Systems Protection Board 2026) · No. AT-0432-16-0588-P-1 · Decided April 2, 2026

SUMMARY

The Merit Systems Protection Board held that, in a case involving disability discrimination, it may award pecuniary compensatory damages for proven adverse tax consequences resulting from a lump-sum back pay award. The Board affirmed an award of $22,000 in nonpecuniary compensatory damages and remanded for evidence and further adjudication regarding the appellant's actual increased tax liability.

CASE DETAILS

COURT	United States Merit Systems Protection Board
WRITING FOR THE COURT	Henry J. Kerner, Vice Chairman; James J. Woodruff II, Member
JURISDICTION	United States Merit Systems Protection Board
DECIDED	April 2, 2026
DOCKET	AT-0432-16-0588-P-1
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The appellant petitioned for review of an addendum initial decision denying a tax offset payment and awarding $22,000 in nonpecuniary compensatory damages. The agency filed a cross-petition challenging the compensatory-damages award.
STANDARD OF REVIEW	The Board reviewed the addendum initial decision on petition for review and independently evaluated the legal authority to award compensatory damages and the amount of nonpecuniary damages.
PRECEDENTIAL VALUE	Published and precedential Merit Systems Protection Board opinion
PARTIES	Ann Murray v. National Aeronautics and Space Administration

TOPICS

merit systems protection board · federal employment law · disability discrimination · compensatory damages · appellate procedure

PRACTICE AREAS

Federal employment law · Disability discrimination · Compensatory damages · Administrative appeals

QUESTIONS PRESENTED

1. Whether the Board may award pecuniary compensatory damages for proven adverse tax consequences resulting from receipt of a lump-sum back pay award in a disability-discrimination case.
2. Whether Murray established entitlement to an amount of pecuniary compensatory damages for adverse tax consequences when she had not yet submitted evidence of her actual tax liability.
3. Whether the $22,000 award of nonpecuniary compensatory damages was appropriate.

HOLDINGS

1. In a case involving a finding that a federal agency committed prohibited discrimination under Title VII or the Rehabilitation Act, the Board may award as pecuniary compensatory damages payment for proven adverse tax consequences caused by receipt of a lump-sum back pay award.
2. An appellant seeking tax-related pecuniary compensatory damages must prove the amount of increased tax liability actually caused by receiving the lump-sum back pay award; because Murray had not yet submitted that evidence, the issue required remand.
3. The $22,000 award of nonpecuniary compensatory damages was appropriate and should be affirmed.

KEY QUOTATIONS

> *"Accordingly, we find that, in cases involving findings that the agency committed prohibited discrimination pursuant to Title VII and/or the Rehabilitation Act, the Board may award as compensatory damages payment for the proven adverse tax consequences of a receipt of a lump sum back pay award."* (2026 MSPB 4, ¶ 13)

> *"Taking all these circumstances into account, we find that the administrative judge's decision to award $22,000 in nonpecuniary compensatory damages is appropriate."* (2026 MSPB 4, ¶ 21)

FACTUAL BACKGROUND

Murray previously established that NASA discriminated against her on the basis of disability by failing to accommodate her and that her removal action should be reversed. Following restoration and an award of several years of back pay in a lump sum, she claimed that receiving the back pay in a single tax year would cause adverse tax consequences and estimated the impact at more than $100,000. She also sought nonpecuniary compensatory damages based on physical, emotional, professional, and financial harm associated with the agency's actions.

PROCEDURAL HISTORY

In an earlier final order, the Board found that Murray proved failure-to-accommodate disability discrimination, reversed her removal, and ordered cancellation of the removal, restoration to duty, and payment of back pay and related benefits. On a subsequent motion for compensatory damages, the administrative judge denied a tax offset payment but awarded $22,000 in nonpecuniary compensatory damages. The Board granted Murray's petition for review, denied the agency's cross-petition, affirmed the nonpecuniary award, reversed the ruling that the Board lacked authority to award pecuniary compensatory damages for adverse tax consequences, and remanded for further adjudication.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The regional office shall permit Murray to submit evidence and argument regarding the amount of increased tax liability caused by the lump-sum back pay payment. She must provide detailed calculations showing the actual tax liability for each year of the back-pay period, the liability that would have resulted if she had received the back pay as regular salary, and the liability attributable solely to the lump-sum payment. NASA shall have an opportunity to respond, and the administrative judge shall issue a new initial decision determining the appropriate amount of pecuniary compensatory damages, if any.

CASES CITED

- Murray v. National Aeronautics and Space Administration, MSPB Docket No. AT-0432-16-0588-I-1, Final Order, ¶¶ 1, 6, 8-20 (June 22, 2023)
- Edwards v. Department of Transportation, 117 M.S.P.R. 222 (2012)
- Danzie v. Department of the Army, EEOC Appeal No. 01A42575, 2004 WL 1763834 (July 28, 2004)
- Gilewicz v. Department of Homeland Security, 2024 MSPB 7
- Heffernan v. Department of Health and Human Services, 107 M.S.P.R. 97 (2007)
- Minardi v. U.S. Postal Service, EEOC Appeal No. 01981955, 2000 WL 33542026 (Oct. 3, 2000)
- Johnston v. Department of the Treasury, 100 M.S.P.R. 196 (2005)
- Holtgrewe v. Federal Deposit Insurance Corporation, 65 M.S.P.R. 137 (1994)
- Alford v. Department of Defense, 113 M.S.P.R. 629 (2010)
- Kinney v. Department of Veterans Affairs, 103 M.S.P.R. 602 (2006)
- Hopkins v. Department of the Navy, 86 M.S.P.R. 11 (2000)
- Harris v. Department of Agriculture, 53 M.S.P.R. 78 (1992), aff’d, 988 F.2d 130 (Fed. Cir. 1993) (Table)
- Wilson v. U.S. Postal Service, 38 M.S.P.R. 156 (1988)
- Gay v. U.S. Postal Service, 41 M.S.P.R. 476 (1989)
- Holler v. Department of the Navy, EEOC Appeal Nos. 01990407 and 01982627, 2001 WL 991924 (Aug. 22, 2001)
- Van Hoose v. Department of the Navy, EEOC Appeal Nos. 01990455 and 01982628, 2001 WL 991925 (Aug. 22, 2001)
- Kyle S. v. Department of Agriculture, EEOC Petition No. 202204525, 2024 WL 3507323 (July 9, 2024)
- Marquis K. v. Department of Homeland Security, EEOC Appeal No. 0120162675, 2017 WL 3911865 (Aug. 23, 2017)

- Petitioner v. Department of Homeland Security, EEOC Petition No. 0420140001, 2014 WL 7005926 (Dec. 5, 2014)
- Alcala v. Department of the Treasury, EEOC Appeal No. 01A14299, 2002 WL 31153182 (Sept. 18, 2002)
- Goetze v. Department of the Navy, EEOC Appeal No. 01991530, 2001 WL 991923 (Aug. 22, 2001)
- Taylor G. v. Department of the Army, EEOC Appeal No. 0120170778, 2018 WL 1990472 (Apr. 11, 2018)
- Deon C. v. Department of Commerce, EEOC Appeal No. 2021000877, 2023 WL 2238867 (Feb. 8, 2023)
- Israel F. v. Department of Homeland Security, EEOC Petition No. 0420120010, 2016 WL 4425779 (Aug. 3, 2016)
- Hollingsworth v. Department of Commerce, 117 M.S.P.R. 327 (2012)
- Simmons v. Department of Veterans Affairs, EEOC Appeal No. 01A02306, 2002 WL 1232785 (May 29, 2002)
- McTier v. Department of the Navy, EEOC Appeal No. 07A30016, 2004 WL 483377 (Mar. 2, 2004)
- McCormick v. Department of Justice, EEOC Appeal No. 0720100040, 2011 WL 6147823 (Nov. 23, 2011)
- Terban v. Department of Energy, EEOC Appeal No. 0720040117, 2008 WL 1847616 (Apr. 3, 2008)
- Estate of Nason v. Postmaster General, EEOC Appeal No. 01A01563, 2001 WL 725860 (June 21, 2001)
