

prior left shoulder injury, that, on May 10, 2003, she began experiencing shoulder pain and muscle spasms and that she was restricted from sweeping and mopping activities by her doctor.

On June 11, 2003 the Office advised appellant that she needed to submit additional evidence to support her claim.

Appellant submitted a May 7, 2003 report from Dr. Camalyn Gaines, Board-certified in physical medicine and rehabilitation, who stated that appellant had lumbar spondylosis and radiculopathy and restricted her from lifting over 20 pounds, overhead lifting and repetitive motions of the left side. In a report dated May 21, 2003, Dr. Charles Chaya, Board-certified in internal medicine, stated that appellant had left shoulder bursitis from overuse and restricted her from repetitive movements and overhead reaching.

By decision dated July 17, 2003, the Office denied appellant's claim on the grounds that the evidence was insufficient to establish that the claimed event occurred as alleged.

On August 6, 2003 appellant filed a request for reconsideration and submitted a December 21, 2000 limited-duty agreement which restricted her from overhead lifting, sweeping, mopping and other continuous activities with her left arm. In a report dated May 8, 2003, the employing establishment approved appellant's three-month light-duty restrictions. The employing establishment noted that it could not guarantee eight hours of work per day. On May 22, 2003 the employing establishment assigned appellant duties to be performed without using her left hand including cleaning water fountains, dusting handrails and wiping mirrors in the ladies' restrooms only. In a report dated May 23, 2003, appellant was assigned to clean all water fountains and ladies' rooms mirrors using only her right hand. On May 29, 2003 the employing establishment disapproved appellant's request for light duty because no work was available within her restrictions.

By decision dated October 21, 2003, the Office denied modification of the July 17, 2003 decision.

LEGAL PRECEDENT

In an occupational disease claim, in order to establish that an injury was sustained in the performance of duty, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical opinion must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.²

² *Solomon Polen*, 51 ECAB 341 (2000).

ANALYSIS

Appellant submitted a report from Dr. Gaines who diagnosed lumbar spondylosis and radiculopathy and placed appellant in unlimited duty. However, Dr. Gaines did not attribute appellant's conditions to her federal employment. The record also includes a report from Dr. Chaya who stated that appellant had left shoulder bursitis from overuse and restricted her overhead and repetitive movements. This report fails to establish a causal relationship between appellant's shoulder condition and her federal employment. Appellant therefore has not submitted sufficient rationalized medical evidence to establish that she sustained a shoulder condition causally related to factors of her employment.

CONCLUSION

As appellant has not submitted the requisite medical evidence needed to establish her claim, she has failed to meet her burden of proof. For the above-noted reasons, appellant has not established that she sustained an injury in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated October 21 and July 17, 2003 be affirmed.

Issued: April 16, 2004
Washington, DC

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member