

of the condition on January 12, 2010. The record indicates that appellant had previously filed a traumatic injury claim for a March 28, 2007 injury when she lifted a bucket of ice. That claim was before the Board on prior appeals. By decision dated November 9, 2010, the Board found that appellant had not established an employment-related disability from May 6 to 23, 2009.² In addition, the Board found that OWCP had properly determined in a November 6, 2009 decision that the accepted bilateral shoulder strains and degenerative cervical intervertebral discs had resolved. By decision dated June 20, 2011, the Board found that appellant had not established a recurrence of disability commencing January 12, 2010.³ The history of the case as reported in the Board's prior decisions is incorporated herein by reference.

Appellant submitted an October 7, 2011 statement describing her work history. She indicated that she worked from September 18, 2006 and described her regular duties as a food service worker, which included unloading trucks and filling soda machines with ice. According to appellant, she was placed on light duty on September 7, 2007, which included a 20-pound lifting restriction, but she continued to work beyond her restrictions. Appellant stated that she stopped working on October 30, 2007, returned to light duty on November 2007, then had cervical surgery on January 9, 2008. She reported that she returned to a light-duty cashier and grill relief position in May 2008 and continued to do most of her regular duties except filling soda machines and unloading trucks. In May 2009, appellant reduced her hours to four a day, underwent left shoulder surgery on June 2009 and returned to light duty in December 2009.

In a letter dated July 23, 2012, the employing establishment stated that appellant returned to a light-duty cashier job in November 2009 with a 20-pound lifting restriction and no overhead shoulder work. It indicated that in February 2010 she was placed on restrictions of 10-pound lifting with the left arm.

With respect to medical evidence, appellant submitted a February 16, 2012 report from Dr. Harvey Jones, a Board-certified internist, who noted a March 28, 2007 claim and stated that her job required putting a five-gallon bucket into an ice machine several times a day. Dr. Jones provided results on examination and diagnosed cervical degenerative disc disease, cervical spondylosis, left shoulder post-traumatic arthritis and tendinitis. He opined that appellant's injuries were the result of "multiple incidents" of lifting buckets of ice.

In a report dated July 14, 2012, Dr. Jack Rook, a Board-certified physiatrist, provided a history, review of medical evidence and results on examination. He stated that the cashier duties included repetitive use of the upper extremities. Dr. Rook also noted appellant's regular job duties and indicated that in September and October 2007 she performed regular duties although recommended work restrictions had been made. His diagnoses included permanent aggravation of cervical degenerative disc disease and acromioclavicular (AC) joint disease. Dr. Rook further stated, "Between [appellant's] return to work in September 2007 to when she was taken off work on October 30, 2007 her job involved multiple activities that stressed her neck and shoulder

² Docket No. 10-525 (issued November 9, 2010).

³ Docket No. 10-1749 (issued June 20, 2011).

structures and further aggravated her condition. Appellant's condition was particularly aggravated by the heavy lifting associated with putting ice into the soda machine." Dr. Rook noted:

"such activity stresses neck and shoulder musculature and the left shoulder joint. With regards to the left shoulder joint, lifting the arm at and above shoulder level causes the humeral head to rise into the shoulder joint where it comes in contact with the acromion and, in this patient's case, the degenerated [AC] joint. This causes the rotator cuff musculature (which lies on the top of the humerus) to become impinged between the acromion and the humeral head, causing pain and inflammation of the rotator cuff. That activity also stresses the already arthritic [AC] joint. To raise a heavy object to and above shoulder level requires contraction of neck and shoulder musculature, straining and aggravating the underlying cervical and left shoulder myofascial condition."

By decision dated September 6, 2012, OWCP denied the claim for compensation. It found that the medical evidence was not sufficient to establish the claim. On September 28, 2012 appellant requested a hearing before an OWCP hearing representative. The hearing was held on January 16, 2013.

In a decision dated April 4, 2013, an OWCP hearing representative affirmed the September 6, 2012 decision. She found that the medical reports were not based on an accurate factual background and were therefore of diminished probative value.

Appellant requested reconsideration in a letter dated September 30, 2013. She submitted a report dated September 22, 2013 from Dr. Rook, who reiterated that his opinion that work activity from September to October 2007 caused a permanent aggravation of her cervical and left shoulder conditions. Dr. Rook indicated that he understood appellant's work duties from April 2008 to June 2009 did not involve lifting buckets of ice.

By decision dated October 10, 2013, OWCP reviewed the case on its merits and denied modification.

LEGAL PRECEDENT

A claimant seeking benefits under FECA has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.⁴

To establish that an injury was sustained in the performance of duty, a claimant must submit: (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;

⁴ 20 C.F.R. § 10.115(e), (f); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁵

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁶ A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant.⁷ Additionally, in order to be considered rationalized the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.⁸

ANALYSIS

In the present case, appellant had initially filed a claim for injury based on a March 28, 2007 incident involving lifting a bucket of ice. This claim was accepted for bilateral shoulder strains and degenerative cervical intervertebral discs. With respect to the accepted traumatic injuries, the Board found that appellant had not established an employment-related disability from May 6 to 23, 2009 or a recurrence of disability commencing January 12, 2010. In addition, the Board found the traumatic injuries had resolved by November 6, 2009. When OWCP meets its burden of proof in justifying termination of compensation benefits, the burden is on the claimant to establish that any subsequent condition or disability is causally related to the accepted employment injury.⁹ The issue in the present case is whether appellant has established causal relationship between any diagnosed condition and the identified job duties, including work performed in September and October 2007, as well as work from April or May 2008.

Appellant submitted a factual statement discussing her work duties. It appeared that she began working as a food service worker on September 18, 2006 and was working light-duty positions as of September 2007, although the exact duties are unclear. In his July 14, 2012 report, Dr. Rook did not discuss in detail appellant's work history or clearly explain causal relationship between job duties and the diagnosed aggravation of cervical and left shoulder myofascial conditions. He appeared to be referring to heavy lifting, but the nature and extent of such activity is not established. Appellant indicated that she did not perform heavy lifting such as lifting of ice buckets in the light-duty job performed in 2008. Dr. Rook did not provide a complete and accurate background demonstrating his awareness of the frequency and extent of job duties involving heavy lifting. Similarly, Dr. Jones referred generally to multiple incidents of lifting buckets of ice, without providing a complete background or additional explanation of an opinion as to whether diagnosed left shoulder or cervical conditions were causally related to federal employment.

⁵ *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁶ *See Robert G. Morris*, 48 ECAB 238 (1996).

⁷ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁸ *Id.*

⁹ *See Darlene R. Kennedy*, 57 ECAB 414 (2006).

The Board finds that the medical evidence does not contain a rationalized medical opinion on the issue presented. Neither Dr. Rook nor any other physician provided a rationalized medical opinion, based on an accurate factual and medical background, establishing a left shoulder or cervical condition causally related to the identified employment factors. The Board accordingly finds that appellant did not meet her burden of proof.

On appeal, appellant argues that the evidence was sufficient to meet her burden of proof. She argued OWCP failed to properly analyze the evidence and consider job duties performed before the traumatic injury. It is appellant's burden of proof to submit the necessary evidence to establish her claim, including a rationalized medical opinion on the issue presented. For the reasons noted above, she did not meet her burden of proof. Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not established a left shoulder or cervical condition causally related to her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 10, 2013 is affirmed.

Issued: November 18, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board