

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOYCE L. WILLIAMS and U.S. POSTAL SERVICE,
POST OFFICE, Bellmawr, NJ

*Docket No. 00-2150; Submitted on the Record;
Issued March 13, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly adjusted appellant's compensation to reflect her wage-earning capacity in the position of secretary.

The Board has given careful consideration to the issue involved, the contentions of the parties on appeal and the entire case record. The Board finds that the March 16, 2000 decision of the Office is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the hearing representative.¹

¹ The job of part-time secretary which was identified by the rehabilitation counselor on June 24, 1997 was within the physical restrictions set by appellant's treating physician, Dr. Arun R. Ginde, a Board-certified neurological surgeon, was within appellant's vocation ability and was reasonably available. The Office therefore properly determined that the job of part-time secretary represented appellant's wage-earning capacity. *See James Smith*, 52 ECAB ____ (Docket No. 00-1103, issued October 25, 2001). Further, unsuccessful efforts of a claimant to obtain a job in a selected position do not establish that the position is unavailable. *See Dorothy Lams*, 47 ECAB 584, 587 n.7 (1996).

The March 16, 2000 and June 30, 1999 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
March 13, 2002

Alec J. Koromilas
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member