

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROSS W. SHOTWELL, JR. and U.S. POSTAL SERVICE,
POST OFFICE, Jacksonville, FL

*Docket No. 01-2070; Submitted on the Record;
Issued May 6, 2002*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's claim for compensation for a disabling back condition from April 8 to July 28, 2000.

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 June 21, 2001 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.

The June 21, 2001 and October 26, 2000 decisions of the Office of Workers' Compensation Programs are hereby affirmed.¹

Dated, Washington, DC
May 6, 2002

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

¹ Appellant's hearing testimony that he stopped working at the end of March 2000 due to his emotional problem, not his back condition, supported the Office hearing representative's findings that appellant did not establish that he was disabled during the relevant time period due to his back. Further, no evidence in the record corroborated appellant's contention that the employing establishment gave him work which exceeded his restrictions. Appellant's treating physician, Dr. Shafaat Ahmed, a Board-certified orthopedic surgeon, stated that "a change" occurred at work and appellant could no longer tolerate his work activities but did not specifically state which activities at work aggravated appellant's condition and therefore his opinion was not probative. *See Dennis M. Mascarenas*, 49 ECAB 215, 217 (1997). Appellant therefore, failed to prove his claim for a disabling back condition from April 8 to July 28, 2000.