

SERVED: November 5, 1992

NTSB Order No. EA-3725

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 29th day of October, 1992

THOMAS C. RICHARDS,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket 145-EAJA-SE-10716
v.)	
)	
ALLAN R. CALDER,)	
)	
Respondent.)	
)	

ORDER DISMISSING APPEAL

On July 28, 1992, the Administrator filed a notice of appeal from the written initial decision Administrative Law Judge Jerrell R. Davis served in the proceeding on July 24, 1992, in connection with the respondent's application for attorney fees and other expenses under the Equal Access to Justice Act.¹ However, the Administrator has not filed an appeal brief and his appeal is therefore subject to dismissal under section 821.48(a) of the Board's Rules of Practice.² See 49 CFR Part 821.³

¹The law judge's decision granted an EAJA award in the amount of \$3,534.93. The Board in Order EA-3565 (served May 19, 1992) had sustained the law judge's dismissal of the Administrator's complaint in Docket SE-10716 as stale.

²Section 821.48(a) provides as follows:

ACCORDINGLY, IT IS ORDERED THAT:

The Administrator's appeal is dismissed.

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER, HART and HAMMERSCHMIDT, Members of the Board, concurred in the above order.

(..continued)

"§ 821.48 Briefs and oral argument.

(a) Appeal briefs. Each appeal must be perfected within 50 days after an oral initial decision has been rendered, or 30 days after service of a written initial decision, by filing with the Board and serving on the other party a brief in support of the appeal. Appeals may be dismissed by the Board on its own initiative or on motion of the other party, in cases where a party who has filed a notice of appeal fails to perfect his appeal by filing a timely brief."

³Section 821.48(a) is applicable to an appeal from an EAJA decision pursuant to Section 826.38, 49 CFR Part 826.