

SERVED: July 7, 1995

NTSB Order No. EA-4379

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 5th day of July, 1995

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DAVID R. HINSON,		)	
Administrator,		)	
Federal Aviation Administration,		)	
		)	
Complainant,		)	
		)	
v.		)	Docket No. NA-4
		)	
JAMES A. PEBLEY,		)	
		)	
Respondent.		)	
		)	
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**ORDER DISMISSING APPEAL**

The Administrator has moved to dismiss respondent's appeal in this proceeding because the notice of appeal was not filed, as required by Section 821.47 of the Board's Rules of Practice,<sup>1</sup>

<sup>1</sup>Section 821.47 provides as follows:

§ 821.47 Notice of appeal.

A party may appeal from a law judge's order or from the initial decision by filing with the Board and serving upon the other parties (pursuant to § 821.8) a notice of appeal within 10 days after an oral initial decision has been rendered or a written decision or an order has been served.

within 10 days after the law judge's decision<sup>2</sup> was served on March 24, 1995.<sup>3</sup> We will grant the motion to which respondent filed no answer.<sup>4</sup>

Inasmuch as respondent's tardiness in filing a notice of appeal from the law judge's decision does not appear to be excusable for good cause shown, his appeal will not be entertained. See Administrator v. Hooper, 6 N.T.S.B. 559 (1988).

**ACCORDINGLY, IT IS ORDERED THAT:**

The respondent's appeal is dismissed.

HALL, Chairman, FRANCIS, Vice Chairman, and HAMMERSCHMIDT, Member of the Board, concurred in the above order.

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<sup>2</sup>The law judge agreed with the Administrator, who cited our decision in Administrator v. Sherman, NTSB Order No. EA-4019 (1993), that the Board has no jurisdiction to review the FAA's issuance of warning letters and issued an order dismissing respondent's appeal and terminating the proceedings.

<sup>3</sup>In order for respondent's notice to have been timely filed it should have been filed no later than April 3. Respondent's notice was dated April 6.

<sup>4</sup>Additionally, respondent failed to file a timely appeal brief, as required by § 821.48(a). The brief he filed on April 26 was due on April 24.