

SERVED: June 16, 1998

NTSB Order No. EA-4674

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 8th day of June, 1998

Petition of)
)
)
WILLIAM G. SAKER)
)
for review of the denial by) Docket SM-4273
the Administrator of the)
Federal Aviation Administration)
of the issuance of an airman)
medical certificate.)
)
)

ORDER DISMISSING APPEAL

The Administrator has moved to dismiss the appeal filed by the petitioner in this proceeding because it was not perfected by the filing of a timely appeal brief, as required by Section 821.48(a) of the Board's Rules of Practice (49 CFR Part 821).¹ We will grant the motion, to which the petitioner has not filed an answer.

¹Section 821.48(a) provides as follows:

§ 821.48(a) **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.

The record establishes that petitioner filed a timely notice of appeal from the written decision the law judge served on February 18, 1998, but he did not file an appeal brief within 30 days after that date; that is, by March 20.² In the absence of good cause to excuse a failure to file an appeal brief on time, the party's appeal must be dismissed. See Administrator v. Hooper, 6 NTSB 559, 560 (1988).

ACCORDINGLY, IT IS ORDERED THAT:

1. The Administrator's motion to dismiss is granted; and
2. The petitioner's appeal is dismissed.

HALL, Chairman, FRANCIS, Vice Chairman, HAMMERSCHMIDT, GOGLIA, and BLACK, Members of the Board, concurred in the above order.

²The law judge agreed with the Administrator that, under section 67.211(d) of the Federal Aviation Regulations, 14 CFR Part 67, petitioner was ineligible for a second class medical certificate because of his established history of cardiac valve replacement.