

SERVED: October 22, 1998

NTSB Order No. EA-4712

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 15th day of October, 1998

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JANE F. GARVEY,)	
Administrator,)	
Federal Aviation Administration,)	
)	
	Complainant,)	
)	
	v.)	Docket SE-15199
)	
ROSS EMORY DIEHL,)	
)	
	Respondent.)	
)	
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ORDER DISMISSING APPEAL

The Administrator has moved to dismiss the appeal filed by the respondent in this proceeding because the appeal 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 respondent filed no 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 respondent, by counsel, filed a timely notice of appeal from the law judge's May 1, 1998 written initial decision, but he did not file an appeal brief within 30 days after the denial; that is, by June 1.²

In the absence of good cause to excuse respondent's failure to file a timely appeal brief, his appeal must be dismissed. Administrator v. Hooper, 6 NTSB 559 (1988).

ACCORDINGLY, IT IS ORDERED THAT:

1. The Administrator's motion to dismiss is granted; and
2. The respondent'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 granted a motion filed by the Administrator for dismissal of an appeal respondent had taken from the Administrator's March 5, 1998 Amended Order of Suspension/Settlement.