

SERVED: May 4, 1999

NTSB Order No. EA-4758

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 28th day of April, 1999

JANE F. GARVEY,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-14785
v.)	
)	
LEONARD P. MILLER,)	
)	
Respondent.)	

ORDER DENYING MODIFICATION

The Administrator has petitioned for modification of our decision, NTSB Order No. EA-4738, served January 14, 1999. She contends that the decision fails to comply with Administrator v. Hooper, 6 NTSB 559 (1988), and 49 CFR 821.48(a). We disagree, and deny the petition.¹

Our decision granting respondent's petition for reconsideration and, thereby, agreeing to hear his appeal on the merits, was based on respondent's showing that counsel was too sick at the time the appeal brief was due either to file it or to

¹ We note that it is unclear from the Administrator's petition whether she believes that, in hearing the appeal on the merits we violated Hooper because good cause was not shown, or believes that the decision should discuss Hooper or the good cause standard.

submit an extension request. It seemed evident to us that this qualified as good cause under Hooper.

Hooper does not stand for the proposition that in each case where we find good cause we cite that case, nor does it require rote repetition of a formal good cause "finding." In Hooper, the Board committed itself to uniformly applying a policy to dismiss untimely notices of appeal and briefs where a good cause showing had not been made. The Board complied with that policy commitment here.

ACCORDINGLY, IT IS ORDERED THAT:

The petition for modification is denied.

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