

SERVED: August 28, 1997

NTSB Order No. EA-4585

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 25th day of August, 1997

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JANE F. GARVEY,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	
v.)	Docket SE-14795
)	
DALTON L. HOFFMAN d/b/a)	
ACUTE CARE TRANSPORT,)	
)	
Respondent.)	
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ORDER DISMISSING APPEAL

The Administrator has filed a motion to dismiss respondent's appeal to the Board in this proceeding because it was not filed within 10 days after the law judge issued his written decision¹ on June 11, 1997, as required by Section 821.47 of the Board's Rules of Practice (see 49 CFR Part 821).² We will grant the

¹The law judge affirmed an order of the Administrator revoking respondent's Air Carrier Operating Certificate for his alleged noncompliance with sections 135.13(a)(2), 135.25(b) and 135.35 of the Federal Aviation Regulations, 14 C.F.R. Part 135.

motion.³

In the absence of a showing of good cause excusing the failure to meet the filing deadline, an appeal will not be entertained. See, e.g., Administrator v. Hooper, 6 NTSB 559 (1988). Although respondent expresses the opinion that his appeal ought to be deemed timely because it was filed within 10 days after he collected the mail containing a copy of the law judge's order, our rules, and explicit advice accompanying the decision, clearly indicate that the 10 days runs from the date the law judge's decision is served, not from the date it is received. It follows that respondent's late filing is not excusable for good cause shown.

ACCORDINGLY, IT IS ORDERED THAT:

The respondent's appeal is dismissed.⁴

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

(..continued)

²Section 821.47 provides as follows:

§ 821.47 **Notice of Appeal.**

(a) 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 or an order has been rendered or a written decision or a final or appealable (see § 821.16) order has been served....

³Respondent's notice of appeal was filed on June 28, 1997.

⁴The dismissal of respondent's appeal moots his July 8 request for an additional 30 days to file a brief to perfect the appeal.