

SERVED: March 17, 2009

NTSB Order No. EA-5434

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Issued under delegated authority (49 C.F.R. 800.24)
on the 17th day of March, 2009

_____)	
APPLICATION OF)	
)	
WILLIAM DeSHAZER)	
)	
)	
)	Docket 333-EAJA-SE-18042
For an award of attorney)	
fees and expenses under the)	
Equal Access to Justice Act)	
)	
)	
_____)	

ORDER DISMISSING APPEAL

The Administrator has moved to dismiss the appeal that applicant has filed in this proceeding, because applicant did not perfect his appeal by filing a timely appeal brief, as the Board's Rules of Practice require.¹ The Administrator's motion, to which applicant filed no responsive pleading, is granted.

¹ 821.48(a) **Briefs and oral argument.**

(a) Appeal brief ... each appeal must be perfected, within 50 days after the date on which the oral initial decision was rendered, or 30 days after the date on which the written initial decision or appealable order was served, by the filing, and simultaneous service on the other parties, of a brief in support of the appeal. An appeal may be dismissed by the Board, either on its own initiative or on motion of another party, where a party who has filed a notice of appeal fails to perfect the appeal by filing a timely appeal brief.

The record establishes that applicant filed a timely notice of appeal from the law judge's November 14, 2008 decisional order.² Applicant, however, did not file an appeal brief by the deadline established by § 821.48(a). We have not received an appeal brief from applicant as of the date of this order.

Without good cause to excuse a failure to file a timely appeal brief, or a request to file one out of time before it is due, a party's appeal will 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. Applicant's appeal is dismissed.

Gary L. Halbert
General Counsel

² The law judge's written initial decision and order denied applicant's application for an award of attorney fees and expenses under the Equal Access to Justice Act.