

UNITED STATES DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
WASHINGTON, DC 20591

Served: December 21, 1989

FAA Order No. 89-0007

FEDERAL AVIATION ADMINISTRATION, )  
 )  
Complainant, )  
 )  
vs. )  
 )  
BETTY A. ZENKNER )  
 )  
Respondent. )  
 )

Docket No. CP89NM0068

ORDER DISMISSING APPEAL

On August 18, 1989, Respondent Betty A. Zenkner ("Respondent") filed a notice of appeal from an Order Assessing Civil Penalty recited in the oral initial decision of Administrative Law Judge Burton Kolko at the conclusion of the hearing held on August 8, 1989. Respondent requested an extension of time in which to file her appeal brief; in her request, she stated that FAA counsel did not object to the extension. On November 3, 1989, Respondent was granted a 20-day extension of time in which to file her brief. Hence, Respondent's appeal brief was due on November 28, 1989.<sup>1/</sup>

Respondent has failed to file an appeal brief within the period for filing such briefs, as extended. Consequently, Respondent's appeal is subject to dismissal pursuant to 14 CFR 13.233(d)(2).<sup>2/</sup>

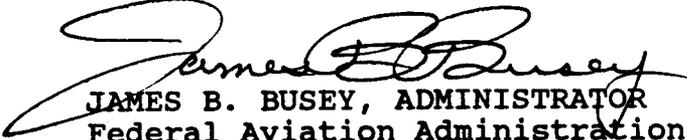
<sup>1/</sup> Since the letter in which Respondent was granted an extension of time was served by mail, Respondent received the benefit of the "mailing rule", which gave her an additional 5 days in which to file her brief. See 14 CFR 13.211(e).

<sup>2/</sup> Section 13.233(d) provides:

The FAA decisionmaker may dismiss an appeal, on the FAA decisionmaker's own initiative or upon motion of any other party, where a party has filed a notice of appeal but fails to perfect the appeal by timely filing of an appeal brief with the FAA decisionmaker.

THEREFORE, IT IS ORDERED THAT:

Respondent's appeal is hereby dismissed.

  
JAMES B. BUSEY, ADMINISTRATOR  
Federal Aviation Administration

Issued this 20<sup>th</sup> day of December, 1989.