

order, the law judge found that good cause did not exist to excuse Respondent's failure to file an answer. Respondent has not perfected that appeal by filing an appeal brief^{3/} within 50 days from the issuance of the initial decision.

Consequently, Respondent failed to satisfy the requirements of 14 C.F.R. § 13.233(c).^{4/} Accordingly, Respondent's appeal

(Footnote 2 continued from previous page.)

the order it would become effective November 23, and so what I'm going to do is -- I guess what I'll do is find that order effective as of November 23 unless there's something that causes that to change, in which case you would then have ten days from November 23 to file an appeal with the administrator.

(Prehearing Conference TR-19). The law judge issued a written order on November 24, 1992, dismissing the proceeding with prejudice.

Whether Respondent's notice of appeal was filed prematurely or late is unclear, and need not be resolved in this decision.

^{3/} The Administrator has at times construed a detailed notice of appeal to be an appeal brief as well as a notice. Respondent explained in his notice of appeal that "[t]he minor offense involved did not merit the serious fine imposed." He provided no other basis for his appeal. The only issue on appeal at this point would be whether the law judge was in error when he found that good cause did not exist to excuse Respondent's failure to file an answer. Consequently, there is no reason to construe this notice of appeal as an appeal brief.

^{4/} Section 13.233(c) of the Rules of Practice, 14 C.F.R. § 13.233(c), provides:

Perfecting an appeal. Unless otherwise agreed by the parties, a party shall perfect an appeal, not later than 50 days after entry of the oral initial decision on the record or service of the written initial decision on the party, by filing an appeal brief with the FAA decisionmaker.

(Footnote 4 continued on next page.)

is subject to dismissal under 14 C.F.R. § 13.233(d)(2).^{5/}

THEREFORE, IT IS ORDERED THAT:

Respondent's appeal is dismissed.

JOSEPH M. DEL BALZO
ACTING ADMINISTRATOR
Federal Aviation Administration


JAMES S. DILLMAN*
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Issued this 18th day of March, 1993.

* Issued under authority delegated to the Chief Counsel and the Assistant Chief Counsel for Litigation by Memorandum dated October 27, 1992, under 49 U.S.C. § 322(b) and 14 C.F.R. § 13.202. See 57 Fed. Reg. 58,280 (1992).

(Footnote 4 continued from previous page.)

It is not clear whether the 50-day period began on November 9, November 23 or November 24. Assuming that the time period began after the law judge served the written decision on November 24, 1992, then the appeal brief would have been due no later than on January 18, 1993, in accordance with 14 C.F.R. §§ 13.233(c) and 13.211(e). (Section 13.211(e) provides 5 extra days when a party has a right to act within a prescribed period of time after service by mail.)

^{5/} Section 13.233(d)(2) authorizes the Administrator to dismiss an appeal where a party has filed a notice of appeal but has failed to perfect that appeal by filing a timely appeal brief. 14 C.F.R. § 13.233(d)(2).