

U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL RAILROAD ADMINISTRATION  
WASHINGTON, D.C.

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Appeal of S. A. Ferguson

(FRA—Locomotive Engineer Certification Case)

Docket No. EQAL 2005-32

DOT Docket No. FRA 2006-24766

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ORDER

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Stephen A. Ferguson (“Ferguson”) has filed an Appeal to the Administrator, dated 21 December 2007, including a cover-letter explanation of tardiness, dated 3 February 2008. The current package was postmarked 7 March 2008, and received in this office 10 March 2008. Ferguson claims that the appeal was previously submitted, and presents evidence from the United States Postal Service that an item was postmarked certified mail 24 December 2007, and delivered 27 December 2007. No record exists in FRA of receipt of this earlier filing.

I have previously granted an extension of time for the filing of Ferguson’s appeal to 7 December 2007. This extension of time was dated 13 November 2007.

It is clear that Ferguson never presented an appeal that was either delivered or postmarked prior to 7 December 2007, the last date to which an extension of time for filing an appeal has been granted. The appeal re-sent in the current package is dated 21 December 2007, and would not have been timely filed under any scenario. The only explanation for missing the deadline is Ferguson’s misunderstanding of the date to which an extension of time had been granted, though the date was entirely clear in my order extending the time for appeal.

I am not persuaded by the explanation of tardiness, dated 3 February 2008, that the deadline for filing an appeal to the Administrator should be further extended to accommodate a late filing.

ORDERED, Ferguson's Appeal to the Administrator is dismissed.

Dated: \_\_\_\_ [March 10, 2008] \_\_\_\_

\_\_\_\_ [original signed by] \_\_\_\_\_

Joseph H. Boardman  
Administrator