



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 035241754L et al. (1 Summons) DEPT OF BUILDINGS, -against- JOSEPH MCDONALD Hearing Date: 06/15/2026 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$0.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035241754L	Dismissed	09/05/2017	447 52 STREET Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B203	AC 28-118.3.2	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

Summons # 035241754L was issued to respondent Joseph McDonald for a violation of section 28-118.3.2; occupancy contrary to that allowed by C of O and Department of Buildings records. Partitions erected creating illegal use of rooms for living in basement. Unlawful cooking range and kitchen sink present. Also, full bathroom present completed with wash basin, water closet, and bathtub.

Attorney Frank Tamborino appeared for the respondent.

Taylor Barje appeared for the Petitioner, DOB.

The respondent's representative stated that the respondent died prior to the issuance of the summons and submitted a death certificate. See Respondent's Exhibit A.

The death certificate indicates that the respondent died on January 4, 2015. The date of occurrence was 9/10/2017.

The respondent submitted an appeals case, *DOB v. Ernesto Ramos*, Appeal No. 2200552 (June 30, 2022) that held that dispositive government records, such as a death certificate or deed, establish a material fact or defense and Respondent's death certificate is such a record. "As it establishes that Respondent was deceased on the date of occurrence, the Board dismisses the summons on that basis." See *DSNY v. Joseph F. Cullen*, Appeal No. 1901324 (October 10, 2019) (violation dismissed where death certificate provided on appeal indicated named respondent was deceased.)

I credit the testimony of the respondent and the evidence submitted.

I find that the respondent had died prior to the issuance of the summons.

A summons cannot be issued to a decedent.

Accordingly, the summons is dismissed.

	
06/17/2026	06/17/2026
Michelle Mason, Judicial Hearing Officer	Date