OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

Phoebe Dossett, Esq. - Nacmias Law Firm, PLLC 592 Pacific Street 1st Floor Brooklyn,NY 11217	Summons# : 039167779K et al. (1 summonses) DEPT OF BUILDINGS, -against- GEORGE L MALIN Hearing Date : 9/11/2026 Hearing Location : Remote Type of Hearing : By Telephone

Total Penalty Amount : 0.00	**Community Service(Hr):** Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039167779K	Dismissed	11/20/2025	188-09 UNION TURNPIKE, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B201	28-105.1	Dismissed	0.00

Total Penalty for Summons: 0.00

Findings of Facts & Conclusions of Law

On 11/20/25, Respodndent Goerge L Malin was issued a summons alleging a class 2 violation of AC section 28-105.1 for work without a permit. Specifically, the IO noted the following: "New 2W x 1B'L x 4'H sign "Tandir Kebab House" above the main entry It is composed Of gold letters, -Tandir Kebab House," mounted on white board. Top left is black 188-09 and top right is black 718-866- 0616, Center is black "Glatt Kosher With mounted pot and fire icon, On the underside are four lighting fixtures". The first scheduled hearing date was 1/27/26. On 2//24/26, the hearing was adjourned for the testimony of the IO on the motion of Petitioner DOB.

On 9/11/26, the hearing was held by telephone. Respondent appered by his attorney Phoebe Dossett. Petitioner DOB appeared by its attorney Ralph Mondiello and by IO Gamboa.

Ms. Dossett denied the charge and challenged service of process. IO Gamboa testified that upon issuing the summons, he spoke to the only person he found, a male worker, and asked him if he was authorized to accept service on behalf of Respondent. After that "male worker" told him that he was not authorized to accept service, the IO affixed a copy of the summons to "the left glass panel next to main entry".

Ms. Dossett denied the charge and moved to dismiss the summons for defective service and argued that the IO made the wrong inquiry, citing DOB v. Marsha Lindsay, Appeal No. 2001225 (December 10, 2020).

CPLR 308(2) permits service on a natural person by substitue service upon service on a person of suitable age and discretion at an individual's place of business. Here, Respondent is a a natural peson, and the proper inquidy for substituted service is not whether a person at the premises is authorized to accept service on behalf of that individual, but whether such person is of suitable age and discretion. Based on the IO's affirmation of service and his testimony at the hearing, the IO did not make the appropriate inquiry. Accordingly, I find that Petitioner failed to make a reasonable attempt at personal service prior to resorting to the "affix and mail" service under the charter. Accordingly, I grant Respondent's motion and dismiss the summons for defective service. I note for the record that Respondent did not submit any evidence on the merits.

09/23/2026 **09/23/2026**

Didi Skaff, Hearing Officer **Date**