



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# : 039108262H et al. (3 summonses) DEPT OF BUILDINGS, -against- LIM JILLIAN Hearing Date : 2/6/2025 Hearing Location : Remote Type of Hearing : By Telephone
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Total Penalty Amount : 0.00	Community Service(Hr): Not Applicable
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SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039108262H	Dismissed	03/11/2024	429 EAST 114 STREET, Manhattan

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B103	28-118.3.2	Dismissed	0.00

Total Penalty for Summons: 0.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039108263J	Dismissed	03/11/2024	429 EAST 114 STREET, Manhattan

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B127	2008 code), BC 1023.2 (2014 code) & BC	Dismissed	0.00

Total Penalty for Summons: 0.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039108264L	Dismissed	03/11/2024	429 EAST 114 STREET, Manhattan

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B101	28-105.1	Dismissed	0.00

Total Penalty for Summons: 0.00

Findings of Facts & Conclusions of Law

Phoebe Dossett, Esq. appeared for Respondent. Deanna Lamberti, Esq. appeared for Petitioner DOB. Inspector G. Butler appeared to testify.

Respondent was issued 3 summonses: 039108262H, 039108263J, and 039108264L.

Summons 62H was issued for violating AC 28-118.3.2 for SRO created at the rear of apt 4E without a permit and without a second means of egress contrary to city records. The Certificate of Service indicates that the Inspector knocked on Respondent's door. There was no answer and he posted the summons to the front door.

Ms. Lamberti submitted an evidence packet (Exhibit 1) that included the complaint, the Certificate of Occupancy (C/O), HPD record and I-Card. Inspector Butler testified that the C/O reflects that the 4th Floor has 2 apartments, but now has 3 with the SRO. He was able to observe the rear section of the apartment but did not have access to the front section. The door that separated the apartment was locked. He testified that the tenant told him people lived on the other side. The tenant told the Inspector that Respondent lived on the first floor. Inspector Butler knocked on that door. There was no response and he posted the summons on the front entrance door. He testified that he did not attempt to serve anyone else because Respondent is not a corporation.

Ms. Dossett argued that Petitioner did not establish a prima facie case. Petitioner did not establish that the other half of the apartment was occupied. She submitted appeals decisions (Exhibit A). She argued that there was no indicia of separate living. Ms. Dossett challenged service and argued that Respondent is an individual person and resided at the premises. Reasonable attempt requires the Inspector to attempt to serve Respondent personally or a person of suitable age and discretion. The tenant was of suitable age and discretion.

Ms. Lamberti argued that Respondent did not live with the tenant. Service was reasonable. She argued that the door that separated the apartment had a key locking device and negates presumption of a common household. She submitted appeals decision for both these arguments (Exhibit 2).

Summons 63J was issued for violating AC 27-369, BC 1020.2 (2008 code), BC 1023.2 (2014 code) and BC 1024.2 (2022 code) for not having a second means of egress from the SRO created at the rear section of Apt 4E. A locked door was observed between the rear section of the apartment and the fire escape at the front section.

Ms. Lamberti used the photos and the Inspector's testimony from summons 62H (Exhibit 1). She stated that because of the door with a key locking device, the tenant did not have access to the fire escape located at the front section of the apartment.

Ms. Dossett raised the same service argument as she did for summons 62H.

Summons 64L was issued for violating AC 28-105.1 for work without a permit. The Inspector observed a class A apartment #4E divided by full height partition with SRO created at the rear section of the apartment.

Ms. Lamberti used the photos from summons 62H (Exhibit 1). She noted a photo with a partition and door that divided the apartment into 2 separate apartments. There was no permit for the partition.

Ms. Dossett submitted 3 affidavits and deed and argued pre-existing defense (Exhibit A). She argued that the partition was in place prior to Respondent's purchase of the property in 2023. She argued that Respondent did not erect the partition. Ms. Dossett raised the same service argument as she did for summons 62H.

I find service of all 3 summonses improper. To serve a natural person, CPLR § 308 requires due diligence to personally serve that person or a person of suitable age and discretion at Respondent's place of business, dwelling place, or usual place of abode before resorting to affix and mail service. See DOB v. Strok, Irina, Appeal No. 2201629 (April 27, 2023). Respondent is a natural person and resides at the cited premises. The Inspector testified that he had determined the tenant to be of suitable age and discretion. However, he made no attempt to serve the tenant before posting the summonses. Service is defective. Accordingly, the summonses are dismissed.

Viven Chiu

02/07/2025

02/07/2025

Viven Chiu, Hearing Officer

Date

