



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

LANCE CHEBIN - NACMIAS LAW FIRM 592 PACIFIC STREET NEW YORK, NY 11217	Summons No: 000820454X et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- CITYWIDE CONTAINER SERVICE CORP Hearing Date: 11/14/2024 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$350.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000820454X	Sustained	11/20/2023	ON ALLEN ST BETWEEN HESTER ST AN Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA51	24 -163	Sustained	\$350.00

Findings of Fact & Conclusions of Law

Lance Chebin, authorized representative, appeared to represent Respondent Eagle Bus Inc. at the hearing. Senior Inspector Michael Grosso appeared for Petitioner.

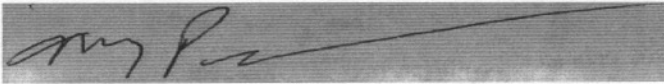
On 11/20/2023 at 6:00pm, the Respondent was observed causing or permitting the idling of a motor vehicle while parked, standing or stopped – 1st offense.

Inspector Grosso offered into evidence a 3 minute 53 second video allegedly showing Respondent's truck idling for more than 3 minutes. In addition, Inspector Grosso offered into evidence photos of the truck and a redacted idling complaint form. Pet.

Exh. 1. Inspector Grosso stated that the place of occurrence is a terminal point where no idling is allowed, that the temperature was over 40 degrees as evidenced by the weather report for the day submitted to the hearing and a photo of entrance to the storefront for a busing company evidencing it's a terminal point.

Respondent's representative stated that the bus was loading personal and nothing was presented to establish that the place of occurrence is a terminal point.

I credit Petitioner's case. Code 24-163(a) provides, in relevant part, "When the ambient temperature is in excess of forty degrees Fahrenheit, no person shall cause or permit the engine of a bus as defined in section one hundred four of the vehicle and traffic law to idle while parking, standing, or stopping (as defined above) at any terminal point, whether or not enclosed, along an established route." Code § 24-163(a), then, prohibits a bus engine from idling for any length of time while parking, standing, or stopping at any terminal point when the temperature is in excess of 40 degrees Fahrenheit. See *DEP v. Leese/ Transportation Corp.*, Appeal No. 2201341 (January 26, 2023). I find that the place of occurrence is a terminal point and the temperature at the time the violation was issued was over forty degrees Fahrenheit. I find that the evidence supports a prima facie case for the violation as alleged and Respondent has failed to provide a defense. Accordingly, I find that the summons is sustained and the standard penalty is imposed for this violation.



11/21/2024

11/21/2024

Malik Pearson, Hearing Officer

Date