



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 No: 039101983X et al. (1 Summons) DEPT OF BUILDINGS, -against- GLADMORE MWANDIAMBIRA Hearing Date: 12/09/2024 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
039101983X	Dismissed	12/21/2023	13 SCHOLLES STREET Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B153	28-211.1	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

A telephonic hearing was held on December 09, 2024.

Respondent was charged with a class 1 violation of Administrative Code section 28-211.1 for "filing a false statement, PW1 states that building is unoccupied, building is occupied."

Petitioner was represented Deanna Lamberti, Esq., who relied on the summons along with the complaint that generated the inspection.

Respondent was represented by Phoebe Dossett, Esq. who denied the violation and argued that there is no prima facie case because no evidence was presented indicating that Respondent made a knowing misstatement of fact. Respondent's representative stated that the building was vacant since 2017 and at time when the documents were submitted the building was vacant. Sometime after an illegal occupant went into the building and changed the locks. Respondent had to start a landlord tenant proceeding to remove the occupants. See, evidence of Petition.

The relevant law, A.C. section 28-211.1, states, "It shall be unlawful for any person to knowingly or negligently make or allow to be made a material false statement in any certificate, professional certification, form, signed statement, application, report or certification of the correction of a violation that is either submitted directly to the department or that is generated with the intent that the department rely on its assertions."

Pursuant to Title 48 RCNY § 6-12(b), the sworn-to-summons is prima facie evidence of the facts stated therein, and if it alleges each element of the rule charged, is legally sufficient to establish a violation, unless disproved by credible evidence from the Respondent.

Here, I find the summons does not establish a prima facie case because it does not allege that Respondent knowingly or negligently made a materially false statement at the time of the submission. Although not required because a prima facie case was not established, nevertheless, I credit Respondent's evidence and find that the same is credible contrary evidence warranting a dismissal of the violation. Accordingly, the summons is DISMISSED.

 12/20/2024	12/20/2024
Simone Archer, Hearing Officer	Date