



**OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS**  
Hearings Division

**DECISION**

|                                                                                                            |                                                                                                                                                                                                                                                                  |
|------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Caroline Kane, Esq. - Nacmias Law Firm, PLLC</b><br>592 Pacific Street, 1st Floor<br>Brooklyn, NY 11217 | <b>Summons No: 039104442R et al. (1 Summons)</b><br><br><b>DEPT OF BUILDINGS,</b><br><br><b>-against-</b><br><br><b>KOHN, YITZCHOK</b><br><br><b>Hearing Date: 01/21/2025</b><br><br><b>Hearing Location: Remote</b><br><br><b>Type of Hearing: By Telephone</b> |
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|                                              |
|----------------------------------------------|
| <b>Total Penalty Amount: \$2,500.00</b>      |
| <b>Community Service(Hr): Not Applicable</b> |

| <b>SUMMONS #</b> | <b>SUMMARY DISPOSITION</b> | <b>DATE OF OCCURRENCE</b> | <b>PLACE OF OCCURRENCE</b> |
|------------------|----------------------------|---------------------------|----------------------------|
| 039104442R       | Sustained                  | 01/26/2024                | 492 MARION STREET Brooklyn |

| <b>LINE<br/>ITEM</b> | <b>OATH<br/>CODE</b> | <b>CODE<br/>SECTION/RULE</b> | <b>RESULT</b> | <b>PENALTY</b> |
|----------------------|----------------------|------------------------------|---------------|----------------|
| 1                    | B101                 | 28-105.1                     | Sustained     | \$2,500.00     |

**Findings of Fact & Conclusions of Law**

Respondent appeared by its attorney Caroline Kane, Esq. to respond to the charge that there was work without a permit as the IO observed that there were three AO smith hot water heaters Serial Numbers 1709105208545, built 03/03/2017; Serial Number 1709105208540, built 03/03/2017 and Serial Number 2144126783957, built 11/03/2021.

Petitioner appeared by its attorney Maria Dollas, Esq.

**Respondent's Objection To Service Of The Summons**

The affirmation of service sets forth that at the time of service the IO knocked on doors, rang doorbells and that as per tenants of the subject building Respondent was not on site at the time that service was being attempted and that the summons was then posted on door of the front of the building.

Ms. Kane objected to service of the summons arguing that the IO should have asked the people he spoke with if they were willing to accept service of the summons.

Ms. Dollas responded that the IO knocked on doors etc. and could have served the summons by posting but also spoke with tenants who told him that the Respondent was not on site. In support thereof Ms. Dollas submitted the Board's decision in DOB v. The 790 Wythe Ave Condominium Appeal No. 2101700 (February 24, 2022) (Board found IO who rang doorbell and knocked on door made reasonable attempt at service before posting summons).

Respondent's objection to service of the summons is rejected. Thus I find that based on the record before me the IO made a reasonable attempt to personally serve the summons before resorting to the affix and mail. I also note that Respondent does not deny receiving the summons.

On the merits, Ms. Kane argued that the hot water heaters were built prior to the purchase of the property by Respondent and submitted a copy of the deed to the property showing that title to the property was conveyed to Respondent on April 18, 2016. Also submitted was a sworn statement from the building's super setting forth that he has been the super since 2016 and visits the property daily and that "to the best of [the super's] knowledge" the hot water heaters existed before Respondent purchased the property and that Respondent did not replace or install any new hot water heater and the hot water heaters were located on the property before Respondent purchased the property.

Ms. Dollas stated that the hot water heaters were built after Respondent purchased the property and were installed in 2017 and 2021 as set forth in the details of the charge. Further the affidavit submitted by Respondent is too vague without sufficient details.

Ms. Kane also argued that what was observed does not support the Class 1 designation and moved to amend the Class 1 designation to a Class 2 violation (B201).

Ms. Dollas opposed the motion to amend as installing hot water heaters requires a permit and involves gas and therefore such installation must be done correctly and with the appropriate oversight and permit. Therefore the Class 1 designation is supported by the charge.

Based on the record before me I find that the hot water heaters were installed after the Respondent purchased the subject property without a permit. I also credit Petitioner's argument that the Class 1 designation is supported by the conditions detailed in the charge i.e. installation of hot water heaters without a permit. Therefore Respondent's motion to amend is denied.

Accordingly the summons is **sustained**.

*Melanie Finkel*

01/26/2025

01/26/2025

Melanie Finkel, Hearing Officer

Date