



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Caroline Kane, Esq. - Nacmias Law Firm, PLLC 592 Pacific Street, 1st Floor Brooklyn, NY 11217	Summons No: 0703453511 et al. (1 Summons) DEPT OF TRANSPORTATION, -against- CITYWIDE CONTAINER SERVICE CORP Hearing Date: 10/11/2024 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$750.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
0703453511	Sustained	12/02/2023	119 WOODBINE STREET Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	AD09	AC 19-121(A)	Sustained	\$750.00

Findings of Fact & Conclusions of Law

Caroline Kane, attorney, appeared on behalf of Respondent, Citywide Container Service Corp. "(CCSC)" at a remote hearing held on 10/11/2024. The Petitioner, the Department of Transportation ("DOT") did not appear.

CCSC is charged with violation of AC 19-121(a) for having a container stored on the roadway with an expired permit. The IO noted "Respondent failed to apply for a permit in order to store equipment on the roadway. Cited permit expired 11/4/2023 used for ID."

AC 19-121(a) provides:

1. Permit. It shall be unlawful for any person to obstruct, or cause to be obstructed, any portion of a street with construction materials or equipment, unless authorized by a permit issued by the commissioner.
At a hearing held on March 28, 2024 CCSC submitted a work permit granted by the Department of Buildings ("DOB") to Koryun Kirakosyan to perform construction work at the address cited in the summons from May 12, 2023, through March 10, 2024, and moved to dismiss the summons on grounds that the only appropriate respondent was Mr. Kirakosyan not CCSC.

The Appeals Board in *DOT v. Citywide Container Service Corp.*, Appeal No. 2400869 (Aug. 29, 2024) remanded this matter holding that CCSC was not provided the opportunity to present evidence unrelated to its denied motion to dismiss.

At the hearing Respondent submitted the DOB work permit issued to Koryun Kirakosyan dated from May 12, 2023 to 3/10/2024 (Ex A) and argued that the wrong party was named and moved to dismiss.

In *DOT v. Citywide Container Service Corp.*, Appeal No. 2400869 (Aug. 29, 2024) the Appeal Board noted that AC 19-121(a) provides that "[i]t shall be unlawful for any person to obstruct or cause to be obstructed, any portion of a street with construction materials or equipment, unless authorized by a permit issued by the [DOT] commissioner." (Emphasis added.)

A container owner is therefore obligated to confirm that the general contractor has obtained a permit before it places one of its containers on a roadway."

I find that CCSC as owner of the container was properly named as the Respondent and that Respondent failed to establish that the general contractor held a proper DOT permit to place the container on the roadway. I thus find that CCSC failed to establish a defense or rebuttal to the violation.

I find that Petitioner established a prima facie case.

I thus find CCSC in violation of the cited section of law and impose the mandatory penalty.



10/31/2024

10/31/2024

Janet Gawthrop, Hearing Officer

Date