



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Sargo 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 0217743222 et al. (1 Summons) NEW YORK CITY POLICE DEPT, -against- CITYWIDE COMPANY SERVICES Hearing Date: 11/04/2024 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
0217743222	Dismissed	10/30/2023	14th Street b/w 6th and 7th Ave Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	ADC9	34RCNY 2-14(F)(6)	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

The hearing was conducted via telephone conference call on November 4, 2024.

Michael Sargo, attorney for Respondent, Citywide Company Services, appeared at the hearing. No appearance on behalf of Petitioner NYPD.

Summons 0217743222 charges 34 RCNY 2-14 (f)(6) for failure to have the proper street protection under commercial refuse container.

Mr. Sargo made a motion to dismiss. To support his request, he submitted documentation. (See RX1). This includes: 1) Appeal No. 1700895; and 2) a sworn affidavit from an officer of Citywide Company Services that states there was proper street protection in the form of wood planks and that they are under no obligation to maintain the protection. He argued that Appeal No. 1700895 holds that Respondent is under no obligation to monitor the street protection.

Section 2-14(f)(6) of Title 34 of the RCNY provides, in relevant part that "[t]he street shall be protected with proper covering . . . to prevent damage before containers are placed on the street...Placement of all protection shall be done upon delivery by the owner of the container." Contrary to the hearing officer's decision, Respondent has no duty to monitor its container to ensure continuing compliance with the cited rule. See *NYC v. Mr. T Carting Corp.* (Appeal No. 1400462, August 28, 2014).

I credit the sworn affidavit by the officer of Respondent that proper protection was placed under the wheels when the container was placed on the street. I find that Respondent has established a valid defense to the allegation. Accordingly, the summons is dismissed.

Jennifer Cook
Jennifer Cook, Esq.

11/07/2024

11/07/2024

Jennifer Cook, Hearing Officer

Date