



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Nacmias Law Firm, PLLC - Chia-Han Lin 592 Pacific Street New York, NY 11217	Summons No: 048485777R et al. (1 Summons) THE NEW YORK CITY DEPARTMENT OF SANITATION, -against- 2331 GLEASON AVENUE LLC Hearing Date: 12/17/2024 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: **\$50.00**

Community Service(Hr): **Not Applicable**

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
048485777R	Sustained	06/29/2024	2331 GLEASON AVENUE Bronx

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	AS06	A.C. 16-118(2)(A)	Sustained	\$50.00

Findings of Fact & Conclusions of Law

Petitioner, New York City Department of Sanitation, charges Respondent, 2331 GLEASON AVENUE LLC, with a violation of Section 16-118(2)(a) of the Administrative Code of the City of New York, for a dirty sidewalk.

A telephonic hearing was held on Tuesday, December 17, 2024. Petitioner waived its appearance by email. Chia-Han Lin appeared for Respondent and waived the presence of the Issuing Officer.

Respondent moved to dismiss the summons and raised an impossibility defense. Mr. Lin submitted an evidence package ("R1"), including a Holdover Petitioner initiated by Respondent against certain tenants on or around June 7, 2023. Mr. Lin

argued that another violation was dismissed on the impossibility defense, *see DOB vs. 2331 Gleason Ave LLC*, Summons # 035483101X (October 20, 2024).

Code § 16-118(2)(a) requires a premise owner to keep sidewalks abutting the property free from debris regardless of the source. *See NYC v. Joan Brown-Claxton*, Appeal No. 46206 (October 25, 2007). Here, the Officer's affirmed statement on the summons was sufficient to establish the violation. *See* 48 RCNY § 6-12(b) (a summons affirmed under penalty of perjury is prima facie evidence of the facts stated therein). The burden then shifted to Respondent to refute the charge or establish a defense. *See* 48 RCNY § 6-12(a); *DOHMH v. BP Assets 46 LLC*, Appeal No. 2101903 (March 24, 2022).

I credit Respondent's documentary evidence. Respondent established that it initiated a holdover proceeding against certain tenants on or around June 7, 2023, before the inspection. However, this violation is not subject to the impossibility defense, and the cited violation condition is accessible by Respondent, as it is outside of the property and in front of 2331 Gleason Avenue, Bronx County. I'm not convinced by Respondent's argument in its motion to dismiss. As such, Respondent failed to refute the allegation or establish a defense.

Accordingly, the summons is sustained, and a standard civil penalty of \$50 is imposed.



12/17/2024

12/17/2024

Geoffrey Luan, Hearing Officer

Date