



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 000832587H et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- PRO-TEK SERVICES Hearing Date: 02/20/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$600.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000832587H	Sustained	02/16/2024	15 W 33 St Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA1F	24 -163	Sustained	\$600.00

Findings of Fact & Conclusions of Law

The hearing was conducted by telephone via Court Call on February 20, 2025. John McLaughlin represented Petitioner. Respondent appeared through authorized representative Lance Chebin.

The summons charges a violation of Administrative Code (Code) § 24-163 for idling of a motor vehicle engine for more than three minutes as a third and subsequent offense. The issuing officer (IO) affirmed per Department of Environment Protection Records that a citizen observed the vehicle identified in the summons idling for longer than three minutes at the date, time, and location specified in the summons. The summons also lists two prior violations of the same Code provision. Petitioner rested on the summons. Respondent denied the allegation but offered no rebuttal.

Code § 24-163(a) prohibits the idling of a motor vehicle engine in excess of three minutes while parked, standing, or stopped. Per § 6-12(b) of Title 48 of the Rules of the City of New York (RCNY), a summons affirmed under penalty of perjury will be admitted as prima facie evidence of the facts stated therein. See DEP v. Citnalta Construction Corp., Appeal No. 2201191 (February 23, 2023); DEP v. TM & T Service Station Inc., Appeal No. 1901827 (March 19, 2020). Here, the IO verified the idling of Respondent's vehicle for more than three minutes at the cited date, time, and location based on review of DEP records. I credit the IO's affirmed statements and find that the summons was sufficient to establish Petitioner's prima facie case. See DEP v. Citnalta Construction Corp., Appeal No. 2201191 (February 23, 2023); DEP v. TM & T Service Station Inc., Appeal No. 1901827 (March 19, 2020). Respondent provided a denial, which is insufficient to rebut Petitioner's prima facie case, and offered no rebuttal.

The summons is sustained.

Michael Gallagher

02/20/2025

02/20/2025

Michael Gallagher, Hearing Officer

Date