



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: 039527943J et al. (1 Summons) DEPT OF BUILDINGS, -against- SDS Leonard LLC Hearing Date: 06/30/2025 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
039527943J	Dismissed	04/24/2024	63 COLUMBIA STREET Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B207	BC 105.8.2 (2014 code) & BC 106.8.2 (2022 code)	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

On 4/24/24, Respondent SDS Leonard LLC was issued a summons alleging a class 2 violation of BC section 105.8.2 for failure to renew sidewalk shed permit which expired on 4/14/24. The first scheduled hearing date was 7/3/24. On 8/10/24, the hearing was adjourned on Respondent's motion to gather further evidence. On 1/6/25, the hearing was adjourned again to 6/27/25, on Petitioner's motion for the testimony of the IO.

On 6/27/25, the hearing was conducted by telephone. Respondent appeared by its attorney Caroline Kane, Esq. Petitioner DOB appeared by its attorney Daniel Brickman, Esq. Mr. Brickman said that the IO was not available and he was ready to proceed.

Mr. Brickman rested on the summons.

Ms. Kane denied the charge and moved to dismiss the summons for defective service. In his affidavit of service, the IO noted that he made the following but unsuccessful attempt at personal service: "Called out to persons at the site and knocked on door, but no one was available to accept the service at time of service". He thereafter posted a copy of the summons on "the construction fence at exposure 1". Citing *DOB v. 258 W 117 St ADFC*, Appeal No. 2401175 (August 29, 2024). Ms. Kane argued that service of process was defective in that the IO did not indicate how long he waited or knocked on door and said that it was conclusory. Mr. Brickman opposed the motion and argued that the IO made a reasonable attempt at personal service before affixing a copy of the summons to the construction fence.

Charter §1049-a(d)(2) permits alternative service of a summons after making a reasonable attempt to deliver it to an authorized person at the premises; however, when challenged by a respondent, the IO must describe the efforts at personal service, either in the affidavit of service or at the hearing, to establish a reasonable attempt. See *DOB v. 185-255 Park Hill Corp.*, Appeal No. 1801499 (January 24, 2019). Here, the affidavit of service states that the IO "called out" and "knocked on door" before concluding that there was "no one was available to accept service of the summons. Respondent challenged the adequacy of the affidavit of service to establish a reasonable attempt. As the Board held in *DOB v. SMVP Mgmt Inc*, Appeal No. 1900955 (July 25, 2019), without evidence that no one was present at all or in the alternative that the IO inquired of someone whether an authorized person was present, the affidavit of service is merely conclusory and does not describe how he reached his conclusion that no one was authorized. See *DOB v. 557 Realty LLC*, Appeal No. 1900064 (April 4, 2019); *NYC v. Owner of 92 Penn Street*, Appeal No. 1601005 (November 16, 2016). Accordingly, I find that service of process was improper. I grant Respondent's motion and dismiss the summons. I note for the record that Respondent submitted no evidence to rebut the charge on the merits.

Didi Skaff

07/17/2025

07/17/2025

Didi Skaff, Hearing Officer

Date