



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

LANCE CHEBIN - NACMIAS LAW FIRM 592 PACIFIC STREET NEW YORK, NY 11217	Summons No: 000830977Y et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- I HALPER PAPER & SUPPLIES INC Hearing Date: 02/06/2025 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
000830977Y	Sustained	11/28/2023	127 WEST 43 STREET Manhattan

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

Findings of Fact & Conclusions of Law

Antwan Gibbs appeared for the Petitioner. Lance Chebin appeared for the named Respondent charged with a violation of NYC Adm code §24-163 for idling a vehicle for more than three minutes, as a third offense. The hearing was held by telephone.

Petitioner submitted proof of the prior offenses, a video of the vehicle idling for 3:33 minutes, photographs of the truck and license plates, a redacted idling complaint, and other documents (Pet. exh. 1-7). Petitioner then rested on the sworn details of violation.

Respondent stated that the summons should be dismissed because the liftgate was in use at the time of observation.

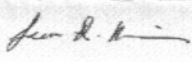
The video showed the liftgate in a stationary position, and not in use, and the Respondent failed to provide any evidence to show that the liftgate was in use.

The issuing officer affirmed on the summons verifying that Respondent's truck idled for longer than three minutes at the cited date, time, and location, based on his review of DEP records, which included the documents and video submitted by the citizen-complainant. This was sufficient to establish Petitioner's prima facie case. See DEP v. Academy Lines LLC, Appeal No. 1900379 (May 16, 2019). Once the Petitioner has established its prima facie case, the Respondent has the burden to refute Petitioner's evidence or otherwise establish a defense. See 48 RCNY § 6-12(a).

The Respondent failed to establish by sufficient credible evidence that a processing device was in use while the engine was idling.

I therefore credit the Petitioner and sustain the charge.

The approved third offense penalty is imposed.

 02/06/2025	02/06/2025
Susan Kippins, Hearing Officer	Date