



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592 PACIFIC STREET Brooklyn, NY 11217	Summons No: 000974324J et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- DHL EXPRESS USA INC Hearing Date: 05/06/2026 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
000974324J	Sustained	12/16/2024	MADISON AVE BTWN 38TH ST AND 39TH ST Manhattan

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

Findings of Fact & Conclusions of Law

Ilma Babu appeared for Respondent by phone. Senior Inspector John McLaughlin, DEP, appeared by phone.

The summons alleges that a truck with NJ plate #XBHV66 idling for more than three minutes on 12/16/24. 3rd offense.

The DEP submitted redacted idling complaint (P1); photos of truck (P2) and the video (P3).

Ms. Babu denied the charge and argued that the video shows that the van was parked. Here, I have watched the video and completely agree. I do not see any signs of idling, but that the car is parked.

However, Petitioner established the charge through the IO's affirmed statements on the summons. See § 6-12(b) of Title 48 of the Rules of the City of New York (RCNY). It was not required to submit a video of the incident as evidence at the hearing, although it was required to submit a video to DEP. See **DEP v. Academy Lines LLC, Appeal No. 1900379 (May16, 2019)**. Once Petitioner established its prima facie case, the burden shifted to Respondent to present evidence refuting Petitioner's case or otherwise establishing a defense. See **DEP v. Citnalta Construction Corp., Appeal No.2201191 (February 23, 2023)**.

Here, the summons establishes a prima facie case that the van was idling for longer than 3 minutes. Ms. Babu did not present any credible evidence that the truck was parked. Even though I do not find the video credible to show that the truck was idling, and believe it was parked, I cannot base my decision on what evidence I find credible or that by a preponderance of the evidence I find that the DEP did not prove it's case.

I find the Respondent in violation of the rule based on the summons which establishes a prima facie case. Summons sustained. Ms. Babu did not contest that this is a third offense. Third offense

	
05/15/2026	05/15/2026
Elizabeth Barrett, Judicial Hearing Officer	Date