



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Phoebe Dossett, Esq. - Nacmias Law Firm, PLLC 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 039111875H et al. (1 Summons) DEPT OF BUILDINGS, -against- BLOORIAN, SAEED Hearing Date: 02/04/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$1,250.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039111875H	Sustained	04/17/2024	145-11 116 AVENUE Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B263	28-204.4	Sustained	\$1,250.00

Findings of Fact & Conclusions of Law

Phoebe Dossett, Esq. for Respondent

Malka Amar, Esq. for DOB

The summons alleges an Agg 1 violation for the failure to comply and it carries a \$3,125 fine. Respondent challenged the Agg 1 nature of the violation because there are no prior violations for a failure to comply. The DOB requested an adjournment for the appearance of the IO to explain why the IO issued this violation as an Agg 1. Respondent objected to this request and I denied the DOB's application as this summons presents an issue of law. The relevant rule states: "Aggravated penalties of the first

order ("Agg. I") may be imposed when evidence establishes the same condition or the same charge under the New York City Construction Codes or the predecessor charge under the laws in effect prior to July 1, 2008 in a prior enforcement action against the same owner or responsible party during the previous three years."

Neither party submitted authority directly on point. This regulation is strictly construed in favor of Respondent. See, Charlotte's Fancy Res. V. DCA, 121 A.D. 2d 969 (1st Dep't. 1986), reversed on other grounds, 69 N.Y. 2d 865 (1987)(licensing requirements are penal in nature and strictly construed against the party seeking enforcement and in favor of the accused); Exxon Corp. v. Board of Standards, 128 A.D. 2d 289 (1st Dept. 1987)(Zoning ordinances, which are in derogation of common law, must be strictly construed against the zoning authority.); DOB v. 1 Jian, Appeal No. 1800296 (May 17, 2018)(Statutory provision 28-301.1 for failing to maintain a building is strictly construed). Here, there is no prior violation for the failure to comply. The fact that Respondent may have had two prior violations may be relevant if Agg 2 was charged as a pattern, but that is not at issue here. Quite simply there is no prior violation for the same condition (failure to comply). Therefore, this summons is treated as a standard failure to comply violation and a \$1,250 fine is imposed.

Mitchell Rubinstein

02/04/2025

02/04/2025

Mitchell Rubinstein, Hearing Officer

Date