



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: 04949-24F0 et al. (1 Summons) DEPARTMENT OF HEALTH & MENTAL HYGIENE, -against- UNITED WHOLESALE AND TRADING INC Hearing Date: 12/17/2024 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$1,750.00			
SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
04949-24F0	Sustained	05/03/2024	3940 22ND ST Queens

LINE ITEM	OATH CODE	VIOL CODE	CODE SECTION/RULE	CONDITION (SEVERITY)	RESULT	PENALTY
1	NA	04L	NYCHC 81.23(a)	3	Sustained	\$250.00
2	NA	04O	NYCHC 81.25	1	Sustained	\$200.00
3	NA	08A	NYCHC 81.23(a)	3	Sustained	\$200.00
4a	NA	10B	NYCHC 81.20(b)	2	Sustained	\$100.00
4b	NA	10B	NYCHC 81.20(b)	2	Sustained / Bundled with Line 4a	\$0.00
5	NA	28-01	NYCHC 3.07	N	Sustained	\$1,000.00

Findings of Fact & Conclusions of Law

The hearing was conducted by telephone conference call on December 17, 2024. The respondent was represented by Caroline Kane, Esq.

As to line item 1, the respondent stated that it had hired pest control services to provide extermination treatments on a once-monthly basis. The respondent provided copies of invoices from January 2024 through April 2024. I credit the respondent's claims that it had employed pest control services. However, respondent could not provide details regarding other efforts made to prevent the presence of rodents in its establishment, such as daily cleanings or other sanitation efforts. Therefore, the summons is upheld and a penalty of \$250 is imposed.

As to line item 2, the respondent stated that it does not intentionally maintain or house pigeons in its establishment. I credit the respondent's statement. However, regardless of whether the respondent intended to have pigeons in its establishment, NYCHC Sec. 81.25 makes clear that "[n]o live animal shall be kept, housed or permitted to enter into or remain in any food service establishment." Therefore, the summons is upheld and a penalty of \$200 is imposed.

As to line item 3, the respondent made statements similar to those for line item one. Again, while I credit the respondent's efforts in employing pest control services, the respondent has not demonstrated what other efforts it has taken to maintain cleanliness and prevent harborage conditions for rodents at its establishment. Therefore, the summons is upheld and a penalty of \$200 is imposed.

As to line items 4a and 4b, the respondent denied the charges but did not present evidence to support its denial. The respondent further stated that the clogs described in the summons did not create harborage conditions. I do not credit the respondent's denial and uphold the summons. The respondent did not provide evidence of cure from DOHMH. Therefore, the summons is upheld and the penalty is \$100.

As to line item 5, the respondent stated that the room in which the propane tanks were found was a storage room with trash and that the propane tanks might have been empty. I do not credit the respondent's statement regarding the contents of the propane tanks as the respondent failed to present evidence that the propane tanks were empty. Therefore, the summons is upheld and a penalty of \$1000 is imposed.



December 17, 2024

12/17/2024

Chin Ho Cheng, Hearing Officer

Date