



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: 039111564K et al. (1 Summons) DEPT OF BUILDINGS, -against- SHAI SHOLMON Hearing Date: 03/17/2025 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
039111564K	Dismissed	04/12/2024	71 SOUTH 4 STREET Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B1G6	BC 3301.13.3	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

The summons alleges that on 4/12/24, the Respondent, Shai Sholmon, was in violation of BC 3301.13.3, Class 1, in that daily logbook had no record of construction superintendent (CS) #228029 or designated competent person visiting the site. Following conditions were observed at 71 South 4th Street, Brooklyn, NY- modified cold form steel make-shift structural work and bracing, exposed underpinning, no records found that CS took corrective measures to maintain safe operations.

Phoebe Dossett, Esq. appeared for Respondent. Rafeena Khairullah, Esq. appeared for Petitioner DOB with IO Gutierrez

#2868. Petitioner rested on the summons and provided DOB permit indicating the named Respondent as the CS and photographs taken by the IO on the date of inspection (See Pet. Ex.).

IO testified that he did reference the wrong section of law on the face of the summons, as BC section 3301.13.3 requires the permit holder to designate a primary CS which was done here. Petitioner moved to amend the section of law to BC section 3301.13.7-3301.13.13 in that the CS failed to perform as per code.

Ms. Dossett opposed the amendment and moved to dismiss in that permit holder did designate a CS. In support she provided CS logs from 4/8/24-4/12/24 signed by Francisco Raymundo, the designated competent person (See Pet. Ex.).

The motion to amend is denied. 48 RCNY 6-13(e) allows an amendment to the summons if: (1) the subject of the amendment is reasonably within the scope of the original summons; (2) such amendment does not allege any additional violations based on an act not specified in the original summons; (3) such amendment does not allege an act that occurred after the original summons was served; and (4) such amendment does not affect the Respondent's right to have adequate notice of the allegations made against him or her.

Here, the subject of the amendment is not reasonably within the scope of the original summons, does allege additional violations based on an act not specified in the original summons, and does affect the Respondent's right to have adequate notice of the allegations made against him or her. A designated competent person was clearly on site on the date of occurrence. The summons confirms this, the CS logbooks confirm this, and the IO confirmed this during his testimony at the instant hearing. If there were unsafe conditions on the site on the date of occurrence, those were not proven by a preponderance of the evidence and were not connected back to the CS failure to perform their duties. Summons #039111554R, heard as part of the same group (60735) alleging similar violating conditions without plans or PE approved drawings, was dismissed as Petitioner failed to identify any specific BC Chapter 33 provision that the Respondent did not comply with or show what, if any, safety measures that the GC did not institute and maintain as required by Chapter 33. Nor did Petitioner show what, if any, equipment, or temporary construction was not provided to safeguard the public and property. Further, even though the PE inspection occurred after the inspection, the PE confirmed that everything was structurally stable, including the adjacent building. This same report was used to obtain DOB's approval of correction (compliance on 5/23/24).

Respondent has rebutted the charge. Accordingly, the summons is dismissed.

	03/24/2025
03/24/2025	
Lara Bianchi, Hearing Officer	Date