



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. 592 Pacific Street Brooklyn, NY 11217	Summons No: 06006-25F0 et al. (1 Summons) DEPARTMENT OF HEALTH & MENTAL HYGIENE, -against- GOOD THANKS CAFE LLC Hearing Date: 08/15/2025 Hearing Location: Remote Type of Hearing: By One-Click
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Total Penalty Amount: \$1,600.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
06006-25F0	Sustained	05/07/2025	131 ORCHARD STREET Manhattan

LINE ITEM	OATH CODE	VIOL CODE	CODE SECTION/RULE	CONDITION (SEVERITY)	RESULT	PENALTY
1	NA	04L	NYCHC 81.23(a)	2	Sustained	\$200.00
2	NA	08A	NYCHC 81.23(a)	4	Sustained	\$200.00
3	NA	10G	NYCHC 81.29(a)	4	Sustained	\$200.00
4	NA	18-01	NYCHC 81.05(a)	N	Sustained	\$1,000.00

Findings of Fact & Conclusions of Law

This summons was issued as a result of an inspection conducted on 5-7-25 at 9:18am. Michael Nacmias, attorney for respondent, appeared by online submission.

LINE ITEM 1

This charges mouse activity present in that 17 fresh mice excreta were observed in the following areas: 4 observed on storage shelf in single service storage area in basement, 7 observed scattered on floor under storage shelves in single service storage area in basement and 6 observed scattered on floor near boiler in rear basement. Mr. Nacmias moved to dismiss on the basis that "the respondent disputes the extent and age of the alleged droppings. The cited material may have predated the most recent pest control service. The premises are under a current pest control contract, with regular service logs available. Please see attached."

I credit the charge and find that it makes out a violation of the cited code section. I do not credit the claim that some of the cited excreta may have predated the most recent pest control service. Rather, I credit the inspector's testimony that the excra observed were "fresh." That the premises are under a current pest control contract is also not a defense to the charge. Accordingly, I sustain this Line Item.

LINE ITEM 2

This charges harborage or conditions conducive to rodents, insects or other pests exist in that ceiling was observed with one gap approximately 1/2 inch wide leading to unknown area in single service storage area in basement. Wall was observed with two gaps, each approximately 1 inch wide leading to unknown area in single service storage area in basement. Mr. Nacmias moved to dismiss on the basis that "wrong named respondent. Structural gaps cited are part of a known building condition outside the respondent's control and responsibility, as they pertain to the common area of the building."

I credit the charge and find that it makes out a violation of the cited code section. The fact that the cited gaps are part of the common area of the building, which respondent does not own, is not a defense to operating a food establishment in an area with such gaps. The cited code section NYC Health Code 81.23(a) requires "food service establishments" to be kept free of, among other things, conditions conducive to pests. A "food service establishment," per NYC Health Code 81.03(s), is a "place where food is provided for individual portion service directly to the consumer." Thus, NYCHC 81.23(a) applies to the permittee of a given food service establishment, and not the owner of the building in which such food service establishment chose to operate. Section 81.23(a) offers no exemption for food service establishments that have difficulty getting the owner of the building in which they are located to close gaps that make areas of the establishment that respondent uses, such as the basement, conducive to the existence of pests. Accordingly, I find that the respondent was rightly named and that respondent is in violation.

LINE ITEM 3

This charges manual chemical sanitization procedure of tableware, utensils and equipment inadequate in that an insufficient chemical level of quaternary ammonium was attained at 0ppm to 100ppm in bucket to sanitize cloths between uses on table in front coffee prep area that is used for warewashing. Concentration of quaternary ammonium measured at 0 ppm; below the 200 ppm required by NYCHC 81.03(ii). Nacmias said "no response."

I credit the charge and find that it makes out a violation of the cited code section. Since respondent does not dispute this charge, I sustain this Line Item.

LINE ITEM 4

This charges current valid permit to operate a food service establishment issued by the Department of Health and Mental Hygiene not provided in that permit expired on 4/30/2025. No permit renewal receipt was provided at time of inspection. Corrective action: Operator was instructed to renew permit. Mr. Nacmias moved to dismiss, stating "administrative oversight. The establishment did not knowingly operate without a permit."

I credit the charge and find that it makes out a violation of the cited code section. Respondent's explanation, even if true, is not a defense. Accordingly, I sustain this Line Item.

Deena F. Greenberg

August 15, 2025

8/15/2025

Deena F. Greenberg, Hearing Officer

Date