



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# : 039100731P et al. (3 summonses) DEPT OF BUILDINGS, -against- 1235 FULTON STREET, LLC Hearing Date : 3/9/2026 Hearing Location : Remote Type of Hearing : By Telephone
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Total Penalty Amount :	0.00	Community Service(Hr):	Not Applicable
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SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039100731P	Dismissed	12/05/2023	1235 FULTON STREET, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B1E8	28-210.1	Dismissed	0.00

Total Penalty for Summons: 0.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039100733Z	Dismissed	12/05/2023	1235 FULTON STREET, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B1E8	28-210.1	Dismissed	0.00

Total Penalty for Summons: 0.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039100735M	Dismissed	12/05/2023	1235 FULTON STREET, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B1E8	28-210.1	Dismissed	0.00

Total Penalty for Summons: 0.00

Findings of Facts & Conclusions of Law

The summonses allege the respondent violated NYC Administrative Code 28-201.1, by having occupancy contrary to the building C of O, each a Class 1 violation, at 1235 Fulton Street Brooklyn on December 5, 2023. Phoebe Dossett, Esq., Nacmias Law Firm, PLLC appeared for the respondent 1235 Fulton Street, LLC. Henry Pita, Esq., appeared for the petitioner DOB. Inspector R. Khan, #3109, the issuing officer, appeared for the petitioner DOB.

The petitioner first relied on the issuing officer's sworn statements in the summonses. The issuing officer stated that at time of inspection front room #2 (expo#1) had bed and dead bolt with one occupant. Dwelling converted with 4 more additional units than legally authorized by C of O. At time of inspection front room #3 (expo#1) had bed and dead bolt with one occupant. Dwelling converted with 4 more additional units than legally authorized by C of O. At time of inspection front room #4 (expo#1) had bed and dead bolt with one occupant. Dwelling converted with 4 more additional units than legally authorized by C of O.

The issuing officer testified that he relied on the photographs and his notes to testify; he did not have a full memory of issuing these summonses. The issuing officer said that FDNY contacted DOB to inspect the premises because there had been a fire in the restaurant on the ground floor. In addition to the commercial space, the building had 3 residential units above. The 2nd floor was supposed to be one unit. However, it was converted into 4 bedroom units with single doors that were deadbolted. There was a bed in each bedroom. The petitioner provided 14 photos taken by the issuing officer (Pet. Exh). Eight were taken on the 2nd floor. The other photos were taken of the fire damaged commercial space. Photos 9 and 10 show the front and back of a door, that had been covered over with wooden planks, with hats on one side and garments on the other hanging from them. The issuing officer was asked about the photos, none of which show a deadbolt. He acknowledged that he did not see deadbolts in the photos, and said that he could not remember if there were any. He did not meet any of the occupants. They were evacuated because of the fire. Photos 1 and 13, show doors, one with a key locking device, the other with a knob that may have had a key locking device. The location of these doors was not identified, i.e. the room or unit in which they may have been located.

The respondent denied the charge. The respondent provided a lease dated July 24, 2020 for the cited unit between the respondent and 4 individuals (Resp. Exh). The respondent argued that the bedrooms were used as one common household.

The respondent moved to dismiss the summons on the ground that the violation details in the summons, the issuing officer's testimony, and the evidence presented failed to establish SRO units were created. The petitioner's photos do not show indicia of separate living. There are no toiletries or mini-fridges for instance. That there may have been boards put up to block a door between rooms, does not change the occupancy of the unit. There are no apparent key locking devices or deadbolts shown. The respondent pointed out that the issuing officer did not allege there were key locking devices on bedroom doors either in the summons or in his testimony. The respondent noted that deadbolt locks are distinct from key locking devices, and do not establish a rebuttable presumption of an SRO. A deadbolt can only be locked from the inside.

The petitioner argued that separate and independent living was established. The issuing officer's recollections were sufficient to establish a rebuttable presumption of use as an SRO. The doorknob in one of the photos looks as if it could have had a key locking device in it.

I credit the respondent's documentary evidence. I do not credit the issuing officer's statement in the summons or his testimony. I find the issuing officer waived in his testimony beyond his lack of memory of this specific inspection. I do not credit the petitioner's photographic evidence. I find the petitioner failed to establish that indicia of separate and independent living were present in the cited bedrooms such as key locking devices, kitchen appliances/food, or toiletries to deem them SROs and therefore illegal dwellings more than those authorized by the C of O (See, DOB v. 443 Graham Avenue LP, Appeal No. 2500966, 9/25/2025). I find the petitioner failed to rebut the respondent's lease and common household it created for the unit. The petitioner's photos are basically of beds in rooms containing personal items typically found in bedrooms.

There are only photos of 2 doors in the package of 14 with knobs; they were not attributed to any specific bedroom(s). The issuing officer did not testify about them. Accordingly, I find the petitioner failed to prove its Class 1 charges by a preponderance of the evidence. The respondent's motion is granted. The summons is dismissed.



03/12/2026

03/12/2026

Anthony Feldmesser, Judicial Hearing Officer

Date