



BenchNOTES Newsletter

March 2024

Trials Division

Personnel

Termination recommended.

ALJ Julia H. Lee recommended termination of employment for a patient care associate who has been excessively absent since November 2020 and absent without leave since May 2022.

Health & Hospitals Corp. (Elmhurst Hospital Ctr.) v. Hewitt, OATH Index No. 2135/23 (Feb. 15, 2024).

[Read more about *Health & Hospitals Corp. \(Elmhurst Hospital Ctr.\) v. Hewitt*.](#)

Licensing

Dismissal of fitness proceeding recommended.

ALJ Tiffany Hamilton recommended dismissing a fitness proceeding against a TLC driver who was convicted in Pennsylvania of a misdemeanor sex offense.

Taxi & Limousine Comm'n v. Saini, OATH Index No. 1193/24 (February 8, 2024).

[Read more about *Taxi & Limousine Comm'n v. Saini* and other Licensing cases.](#)

Vehicle Seizure

Release of vehicle ordered.

ALJ Kevin F. Casey ordered the release of a vehicle seized by the Police Department as an instrumentality of crime because petitioner failed to show its search of the vehicle was lawful.

Police Dep't v. Isaacs, OATH Index No. 1781/24, mem. dec. (Feb. 13, 2024).

[Read more about *Police Dep't v. Isaacs* and other Vehicle Seizure cases.](#)

Health Code

Dismissal of permit revocation proceeding recommended.

ALJ Seon Jeong Lee recommended dismissing a permit revocation proceeding against respondent, the holder of a food establishment permit, based on petitioner's failure to schedule a timely hearing.

Appeals from the Hearings Division

An appeal decision reversed a hearing decision sustaining a charge for harboring a dog more than four months of age not actively vaccinated against rabies. On August 15, 2023, petitioner issued a summons to respondent for failure to provide proof of current rabies vaccination. At the hearing, respondent submitted a vaccination record stating that the rabies vaccine was administered on August 15, 2020, with an expiration date of August 15, 2023. The appeals division dismissed the summons, finding that the summons was issued prematurely because respondent still had the opportunity to revaccinate the dog when the summons was issued. [DOHMH v. Kevin Li](#), Appeal No. 2301833 (February 29, 2024).

An appeal decision affirmed on other grounds the dismissal of a violation for failing to have a taxicab timely inspected. At the hearing, respondent submitted evidence establishing that he surrendered the vehicle's plates to the Department of Motor Vehicles and unsuccessfully attempted to place the vehicle's medallion into storage on the date of the scheduled inspection. The judicial hearing officer credited respondent's evidence and dismissed the violation. The appeals decision affirmed on other grounds, finding that because the summons was unsworn and petitioner did not introduce any evidence to establish the violation, the summons should be dismissed. [TLC v. Sunil R. Ramroop](#), Appeal No. FI0031740 (February 20, 2024).

An appeal decision affirmed in part and reversed in part a hearing decision sustaining Building Code violations against a permit holder for failing to comply with manufacturer specifications and failing to ensure workers received a site safety orientation or refresher. The summons was issued after a worker sustained an injury while using an extension ladder improperly. The hearing officer sustained both violations. The appeal decision reversed in part, dismissing the charge for failure to comply with manufacturer specifications because petitioner failed to provide any manufacturer specification and there is no Building Code provision regarding the proper use of extension ladders. The appeal decision sustained the charge for failure to provide a worker with a site safety refresher, finding that the Building Code required a refresher course for a worker who has performed work at a construction site for one year or more, even if the work was performed intermittently. The appeal decision held that to calculate the one-year period based upon the number of days the worker actually worked at the site would allow an intermittent worker to be deprived of a review of safety procedures for years. [DOB v. Gilbane Building Company](#), Appeal No. 2301942 (February 29, 2024).

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