



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Appeals Division

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Appeal No. 2600416

DSNY v. 286 F.W Inc.

May 28, 2026

Appeal Decision

The appeal of Respondent, premises owner, is **granted**.

Respondent appeals from a recommended decision by Judicial Hearing Officer (JHO) S. Darigan, dated March 19, 2026, sustaining a summons charging a violation of § 16-308.1 of Title 16 of the Rules of the City of New York, for failure to recycle organic waste. Having fully reviewed the record, the Board finds that the JHO's decision is not supported by the law and a preponderance of the evidence.

Summons	Law Charged	Hearing Decision	Appeal Decision	Penalty
49411194J	16 RCNY § 16-308.1	In Violation	Reversed – Dismissed	\$0

In the summons, the issuing officer (IO) affirmed observing on January 17, 2026, at 8:32 a.m., in front of 286 Fort Washington Avenue, Manhattan, organic waste consisting of food scraps placed out for collection with refuse instead of being sourced separated for recycling.

In a one-click hearing submission, Respondent's managing agent challenged service of the summons, submitting a four-minute video taken at the time of occurrence. Respondent's managing agent also asserted that the building superintendent separates all garbage from recyclables.

In the decision sustaining the violation, the JHO found that service was properly effectuated and that Respondent's representative failed to present a meritorious defense to the violation.

On appeal, Respondent's managing agent reiterates the hearing assertions. Petitioner, Department of Sanitation (DSNY), did not answer the appeal.

The Board reverses the JHO's decision. The summons charged a non-existent section of law. While § 16-308.1 of the Administrative Code of the City of New York requires placing organic waste out for collection separately than refuse, the summons did not charge a violation of that section. Rather it charged a violation of 16 RCNY 16-308.1, which does not exist. Because the

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Atty: JS/1388

Date Mailed:
Refund Due: \$100.00

Board is dismissing the summons on this basis, it does not address Respondent's other arguments.

Accordingly, the Board reverses the JHO's decision and dismisses the summons.

By: OATH Appeals Division