



August 29, 2019

Dayal Transport Systems Inc.
12742 King George Blvd.
Surrey, BC V3V 3K5

Dayal Transport Systems Inc. (CTC Decision No. 08/2019) – Decision Notice

A. Overview

In Dayal Transport Systems Inc. (CTC Decision No. 08/2019) (the “Original Decision”) I found that Dayal Transport Systems Inc. (“Dayal”) violated sections 23 and 25 of the *Container Trucking Act* (the “Act”) by not complying with the established rate and record-keeping requirements. I further found that Dayal violated section 6.17 of its Container Trucking Services Licence (the “Licence”) when it transferred truck tags without the Commissioner’s approval. Dayal was ordered to pay an administrative penalty of \$20,000.00.

Consistent with section 34(2) of the Act, Dayal was given 7 days to provide a written response setting out why the proposed penalty should not be imposed.

Dayal provided a written argument in response to its proposed penalty within the specified timeframe. I have considered Dayal’s submission and provide the following Decision Notice.

B. Dayal’s Response

Dayal responded to the Original Decision by accepting its findings but noting that it will be difficult to pay the proposed penalty and that payment may “make it extremely difficult for [Dayal] to continue operations.” Dayal also notes that all the independent operators associated with truck tags which I considered to have been transferred without my approval have resigned from Dayal and are “no longer using the tags.” Dayal asks that the penalty be reduced or eliminated on the basis of financial hardship and on the basis that it has accepted and corrected its errors.

C. Consideration of Dayal’s Response

Financial hardship is not considered when making decisions regarding proposed penalties. Further, business practice corrections made by licensees during an audit or investigation are considered in the Original Decision and accounted for when proposing (or not) a penalty. Any corrections in practice made by Dayal after the Original Decision will matter during future audits or investigations but do not have bearing on the penalty being proposed in this case.

With respect to Dayal’s claim that it is no longer using its independent operator truck tags, I note that, at present, Dayal has three independent operators sponsored under its licence including the two independent operators who, in paragraph 13 of the Original Decision, were identified as working for Prudential Transport Ltd. Dayal, in setting out why the proposed penalty should not be imposed, has, intentionally or otherwise, provided a false statement.

D. Conclusion

Having carefully considered Dayal's submission, and for the reasons outlined above and in my Original Decision, I will not refrain from imposing a monetary penalty. In the result, I hereby order Dayal to pay an administrative fine in the amount of \$20,000.00. Section 35(2) of the *Act* requires that this fine be paid within 30 days of the date of this Notice. Payment should be made by delivering to the Office of the BC Container Trucking Commissioner a cheque in the amount of \$20,000.00 payable to the Minister of Finance.

Finally, I note that Dayal Transport Systems Inc. may request a reconsideration of this decision by filing a Notice of Reconsideration with the Commissioner not more than 30 days after the company's receipt of this Decision Notice. A Notice of Reconsideration must be:

- a. made in writing;
- b. identify the decision for which a reconsideration is requested;
- c. state why the decision should be changed;
- d. state the outcome requested;
- e. include the name, an address for delivery, and telephone number of the applicant and, if the applicant is represented by counsel, include the full name, address for delivery and telephone number of the applicant's counsel; and
- f. signed by the applicant or the applicant's counsel.

Despite the filing of a Notice of Reconsideration, the above order remains in effect until the reconsideration application is determined. This order will be published on the Commissioner's website.

Dated at Vancouver, B.C., this 29th day of August, 2019.



Michael Crawford, Commissioner