



October 9, 2019

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

Commissioner's Decision

Dayal Transport Systems Inc. (CTC Decision No. 10/2019)

(Application for Reconsideration of CTC Decision No. 08/2019)

I. Introduction

1. On September 27, 2019, the Office of the British Columbia Container Trucking Commissioner ("OBCCTC") received an application filed by Dayal Transport Systems Inc. ("Dayal") pursuant to sections 38 and 39 of the *Container Trucking Act* (the "Act"). The application seeks reconsideration of the administrative penalty proposed in Dayal Transport Systems Inc. (CTC Decision No. 08/2019) (the "Original Decision") and ordered in the Decision Notice.
2. In the Original Decision, I determined that 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. An administrative penalty of \$20,000.00 was proposed and Dayal was ordered to pay the fine in the Decision Notice by no later than September 29, 2019.
3. Dayal seeks a reconsideration of the Original Decision and responds to the proposed fine of \$20,000.00 by noting that:

As of September 1st, any and all I/Os sponsored by Dayal Transport Inc. are being paid and dispatched by Dayal Transport Systems Inc. The 2 [independent operators] I/Os that were at Prudential Transport have resigned their I/O status with Dayal Transport as of September 01/19 and are no longer sponsored by Dayal. Furthermore, during the audit we had always met the required deadlines given, except for the occasion where we needed to receive the paper work from the other companies.

4. Dayal concludes by noting that it has conceded its failure to pay the required rates and has rectified its mistakes. Dayal asks that, should the administrative penalty be imposed, it be allowed to pay the penalty in monthly installments as a "one-time payment of \$20,000.00 would not be feasible [for Dayal] without ceasing operations." It should be noted that Dayal is in violation of the order in the Decision Notice because it has failed to pay the penalty by no later than September 29, 2019.

II. Decision

5. Dayal seeks to have the penalty reversed or reduced on the basis that it has conceded its non-compliance and rectified its non-compliant behaviour. Dayal points out that, effective September 1, 2019, Dayal's I/Os are being paid by Dayal and the two I/Os cited in the Decision Notice as working for Prudential Transport Ltd. have resigned.
6. In response to the Original Decision, Dayal noted that all the I/Os associated with truck tags which the Commissioner considered to have been transferred without approval had resigned from Dayal. In the Decision Notice, Dayal was found to have, intentionally or otherwise, provided a false statement regarding the status of the truck tags as Dayal had, at that time, three I/Os under sponsorship.
7. In seeking a reconsideration, Dayal effectively concedes that it provided a false statement to the OBCCTC when it argues why the proposed penalty should not be imposed because it now states that "as of September 1, 2019...the two I/Os that were at Prudential Transport Ltd. have resigned" from Dayal.
8. The Decision Notice was issued on August 29, 2019; therefore, Dayal rectified its non-compliance after having received the Decision Notice. In the Decision Notice, I stated that "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." My position has not changed. Licence holders should not expect to have penalties reduced or reversed because they rectify non-compliant behaviour after it has been identified by the OBCCTC.
9. For these reasons, and for the reasons set out in the Original Decision and Decision Notice, I confirm my decision to impose a \$20,000.00 administrative penalty and hereby dismiss Dayal Transport Systems Inc.'s application for reconsideration.

III. Conclusion

10. In summary, the application for reconsideration of Dayal Transport Systems Inc. (CTC Decision No. 08/2019) and Decision Notice is dismissed, and the penalty proposed in the Original Decision is confirmed and the penalty is imposed.
11. Dayal seeks to pay the penalty in monthly installments. The OBCCTC has allowed for installment payments in limited circumstances where the finding of non-compliance has not been particularly egregious, for instance where it has not involved circumstances of flagrant rate violation or violations of section 28 of the *Act* or Appendix A and E to Schedule 1 of the Container Trucking Services Licence.¹

¹ Supersonic Transport Ltd. (CTC Decision No. 24/2018) – Decision Notice.

12. In this case, Dayal's non-compliance was not egregious. It was found to be owing only \$6,115.58 to its drivers and was not found to have violated section 28 of the Act or Appendix A and E to Schedule 1 of the Container Trucking Services Licence. Therefore, I will permit Dayal to pay its penalty in four monthly installments of \$5,000.00 beginning November 1, 2019 and concluding on February 1, 2020.

This reconsideration will be published on the Commissioner's website.

Dated at Vancouver, B.C., this 9th day of October, 2019.



Michael Crawford, Commissioner