



April 8, 2020

Gur-ish Trucking Ltd.
12259 – 98A Avenue
Surrey, BC V3V 7S5

Commissioner's Decision

Gur-ish Trucking Ltd. (CTC Decision No. 05/2020)

(Application for Reconsideration of CTC Decision No. 04/2020)

I. Introduction

1. On April 6, 2020, the Office of the British Columbia Container Trucking Commissioner (“OBCCTC”) received correspondence that I will be treating as an application for reconsideration by Gur-ish Trucking Ltd. (“Gur-ish”) pursuant to sections 38 and 39 of the *Container Trucking Act* (the “Act”). The letter from Gur-ish effectively asked for reconsideration of the administrative penalty proposed in Gur-ish Trucking Ltd. (CTC Decision No. 04/2020) (the “Original Decision”) and ordered in the Decision Notice.
2. In the Original Decision, I determined that Gur-ish failed to produce records, deliberately provided fabricated company records that were not consistent with driver pay records, failed to adequately explain these discrepancies to the OBCCTC auditor and was generally uncooperative. Gur-ish was found to be owing \$1,179.44 in unpaid training to one driver, \$464.05 in deductions to one driver and \$16,355.60 resulting from incorrect hourly rate payments to five drivers. An administrative penalty against Gur-ish in the amount of \$30,000.00 was proposed.
3. Gur-ish seeks a reconsideration of the Original Decision and responds to the proposed administrative fine of \$30,000.00 by setting out why I should refrain from imposing the penalty. Specifically, Gur-ish argues that it is unable to pay the penalty at present because of the COVID-19 pandemic and supplies six (6) documents in support of its argument.

II. Decision

4. On March 31, 2020, Gur-ish responded to Gur-ish Trucking Ltd. (CTC Decision No. 04/2020) – Decision Notice (the “Decision Notice”) in a short email which noted that it had paid all the money found to be owing to its drivers in the Original Decision and referencing the impact of COVID-19 on its office operations.

5. On April 2, 2020, the OBCCTC responded to Gur-ish's email in writing as follows:

I am prepared to treat your email as a notice of reconsideration under section 38 of the *Container Trucking Act*, however; in order to respond to your reconsideration request, I will require evidence to support your assertion that Gur-ish is unable to pay the administrative fine as a result of the economic impacts arising from COVID-19. If there are any other reasons you believe the fine should be reduced, you should also submit argument and evidence on those reasons.

If you would like to provide evidence which demonstrates that the economic impact of COVID-19 on Gur-ish has resulted in unusual financial hardship with the result that Gur-ish is unable to pay its administrative fine within the legislated timeframe, or if you would like to provide information on any other reason your fine should be reduced, please do so no later than April 9, 2020.

If you do not send substantiating materials, or if I review materials provided but do not find them sufficient, then the administrative penalty will still be due April 30, 2020 unless you choose to request that the penalty be suspended pending my reconsideration.

6. Gur-ish replied on April 6, 2020 in an email that contained seven (7) attached documents, one of which was a letter which stated that:

Currently with the coronavirus pandemic most of my staff are working from home, if not have been laid off due to shortage of work. Companies who have outstanding balances with my company are currently shut down and will not be operating until this pandemic is over. For example, I have been billing Fraser Valley Metals and have yet to receive any payment from them. Companies are unable to pay me any outstanding invoices because COVID-19 had directly impacted them causing companies to shut their doors.

Also, prior to COVID-19 I have many bills which are outstanding from multiple companies adding up to \$158,133.40. These companies whom I have been billing since 2017 have not paid all their invoice which then makes it difficult for me to run my business. Additionally, due to the shortage of revenue these past few months I have been unable to keep up with my repair bills...

7. The details of the remaining six (6) documents are as follows:

- Document 2: Invoice from Tire King Truck Repair Ltd. made out to Gur-ish Trucking Ltd. for services performed between November 21, 2019 and March 4, 2020 in the total amount of \$35,740.86. The invoice indicates that the account is past due. The invoice is dated March 31, 2020;
- Document 3: Statement prepared by Gur-ish Trucking Ltd. made out to White Hawk Transport for services performed between July 24, 2017 and October 12, 2017 in the total amount of \$6,055.65. The invoice is dated April 5, 2020;
- Document 4: Statement prepared by Gur-ish Trucking Ltd. made out to Sunlover Holding Company for services performed between March 13, 2017 and August 8, 2017 in the total amount of \$14,310.00. The invoice is dated April 5, 2020;

- Document 5: Statement prepared by Gur-ish Trucking Ltd. made out to Sandliner Trucking Ltd. for services performed between December 18, 2017 and August 30, 2018 in the total amount of \$2,257.00. The invoice is dated April 5, 2020; and
 - Document 6: Statement prepared by Gur-ish Trucking Ltd. made out to Fraser Valley Metals for services performed between March 18, 2019 and March 3, 2020 in the total amount of \$17,749.40. The invoice is dated April 5, 2020; and
 - Document 7: Statement prepared by Gur-ish Trucking Ltd. made out to Priority Logistics for services performed between April 28, 2016 and September 13, 2019 in the total amount of \$117,762.00. The invoice is dated April 5, 2020.
8. I have reviewed the documents and I do not find that they sufficiently demonstrate that the economic impact of COVID-19 on Gur-ish has resulted in unusual financial hardship with the result that Gur-ish is unable to pay its administrative fine within the legislated timeframe.
 9. Document 2 demonstrates that Gur-ish has not been able to make payment on one account since November 21, 2019, prior to the onset of the COVID-19 pandemic. Documents 3 through 7 are invoices prepared by Gur-ish on April 5, 2020 detailing money owed to Gur-ish between March 2017 and March 3, 2020. With the exception of Document 6, which identifies money owed to Gur-ish for services performed in 2020, none of the documents provided could possibly demonstrate that COVID-19 has resulted in unusual financial hardship for the companies owing money to Gur-ish, simply because of the dates involved.
 10. Further, despite Gur-ish's argument that it has been billing specific companies since 2017, the statements provided are all dated April 5, 2020. Therefore, I find that they were prepared for the express purpose of supporting its request for reconsideration. Gur-ish also argues that companies which owe it money are "currently shut down and will not be operating until this pandemic is over." However, documents 3 & 4 detail service charges incurred by companies that are no longer licenced and who owed Gur-ish money well before the onset of COVID-19. Documents 5 & 7 also involve services rendered and money owing before COVID-19 became an issue. Gur-ish refers to the company invoiced in Document 6, noting that it is currently shut down and will not be operating until this pandemic is over, but that company advises by phone that it is currently in operation.
 11. Finally, I note that none of the documents support Gur-ish's argument that it has laid off staff or lost work because of COVID-19. While the documents demonstrate that Gur-ish has been having difficulty collecting on some of the money that may be owing to it for several years, they do not support Gur-ish's argument that the penalty should be reduced or cancelled because COVID-19 has affected its ability to pay the penalty. Had they so demonstrated, I may have been prepared to reduce the fine due to extenuating circumstances but those have not been established.

III. Conclusion

12. In summary, the application for reconsideration of Gur-ish Trucking Ltd. (CTC Decision No. 04/2020) is dismissed and the penalty proposed in the Original Decision is confirmed and imposed. Section 35(2) of the *Act* requires that this fine be paid within 30 days of the issuance of the Decision Notice. Gur-ish must pay the penalty by no later than April 30, 2020.

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

Dated at Vancouver, B.C., this 8th day of April, 2020.



Michael Crawford, Commissioner