



December 13, 2017

Global Pacific Xpress Inc.
9685 160A Street
Surrey, BC V4N 3K8

Global Pacific Xpress Inc. (CTC Decision No. 30/2017)

A. Overview

In *Global Pacific Xpress Inc.* (CTC Decision No. 30/2017) (the “Original Decision”), I found the licensee, Global Pacific Xpress Inc. (“Global”) had failed to pay a Company Driver in accordance with the legislation.

In the Original Decision, I determined that this was an appropriate case to issue a penalty for the reasons set out in paragraphs 13 – 18 and proposed to impose an administrative fine against Global in the amount of \$500.00. Consistent with s. 34(2) of the *Container Trucking Act* (the “Act”) I advised Global that I would consider its written response to the proposed penalty if it was received within 7 days.

Global has provided a written response within the required time, stating that it disputes the proposed penalty and argues in support of its position.

B. Global’s Response

Global’s response is repeated below in its entirety:

“We have misunderstood the Hrs. worked rule, accordance to our understanding Driver need to work in Global for certain hrs. Set by you and then he eligible for full driver rate \$26.28.”

Global seeks to have the penalty waived on the grounds that it did not understand Section 13 of the *Container Trucking Regulation* (“the Regulation”).

C. Consideration of Global’s Response

I am not persuaded to refrain from imposing an administrative penalty. As noted in *Canstar Trucking Ltd.’s Decision Notice* (CTC Decision No. 26/2017), the onus to become and remain compliant with the requirements of the *Act* rest entirely with the Licensee. The Office of the BC Container Trucking Commissioner’s (“OBCCTC”) audit process is not the means by which licensees can clarify their understanding of the *Act* or confirm their compliance with the *Act*.

Further, in *TMS Transportation Management* (CTC Decision No. 06/2016) the Commissioner ruled that in determining the correct hourly rate for the purpose of an audit, if a licensee “provides evidence satisfactory to the Commissioner’s auditor that a company driver has worked less than 2,340 hours for

any licensee, audits are done at the \$25.13/hour rate for that driver. Otherwise audits are done to the \$26.28/hour rate.”

In the Original Decision, I noted that the auditor established that Global did not identify the number of hours of container trucking services undertaken by one company driver; therefore, the auditor correctly calculated the company drivers’ hourly rate at \$26.28 per hour. Further Global accepted the auditor’s position and subsequently paid out all the required adjustment amounts calculated to be owing.

D. Conclusion

Having carefully considered Global’s response submission, and for the reasons outlined above and in my Original Decision, I do not accept Global’s submission that I should refrain from imposing a penalty.

In the result I hereby order Global to pay an administrative fine in the amount of \$500.00. Section 35(2) of the *Container Trucking Act* requires that this fine be paid within 30 days of the issuance of this Notice. Payment should be made by delivering to the Office of the BC Container Trucking Commissioner a cheque in the amount of \$500.00 payable to the Minister of Finance.

Finally, I note that Global may request a reconsideration of the Commissioner’s Decision by filing a Notice of Reconsideration with the Commissioner not more than 30 days after Global’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,
- 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.

OFFICE OF THE BC CONTAINER TRUCKING COMMISSIONER



Michael Crawford
Commissioner