



February 3, 2022

GRL Freightways Ltd.  
7107 134A Street  
Surrey, BC V3W 4V4

**Commissioner's Decision**  
**GRL Freightways Ltd. (CTC Decision No. 01/2022)**

**Introduction**

1. GRL Freightways Ltd. ("GRL") is a licensee within the meaning of the *Container Trucking Act* (the "Act"). Under sections 22 and 23 of the Act, minimum rates that licensees must pay to truckers who provide container trucking services are established by the Commissioner, and a licensee must comply with those rates. In particular, section 23(2) states:

A licensee who employs or retains a trucker to provide container trucking services must pay the trucker a rate and a fuel surcharge that is not less than the rate and fuel surcharge established under section 22 for those container trucking services.

2. Under section 31 of the Act, the Commissioner may initiate an audit or investigation to ensure compliance with the "Act, the regulations and a licence" whether or not a complaint has been received by the Commissioner.
3. On September 30, 2020, the Commissioner directed an auditor to audit GRL's records to determine if its independent operators ("I/Os") were being paid the required minimum rates. The auditor was directed to audit driver records for the pay periods in the months of June 2018, July 2019 and April 2020 (the "Initial Audit Period") to determine compliance.
4. On July 12, 2021, the Office of the BC Container Trucking Commissioner ("OBCCTC") received a complaint alleging that GRL had sold a truck tag and was requiring the Complainant to alter his logbooks to record double shifts as single shifts and, when he refused, reduced his hours.

**Initial Audit Period**

5. The auditor reviewed the relevant records and determined that during the Initial Audit Period, GRL paid its drivers compliant rates but utilized a hybrid pay model (hourly and trip rates) based upon the clients serviced. GRL did not update the fuel surcharge ("FSC") amount following the second quarter in 2019 and therefore were not correctly paying the FSC in the July 2019.

### **Expanded Audit**

6. The auditor expanded the FSC calculation audit period to include the balance of the third quarter in 2019 (August and September 2019), requested and reviewed GRL's records and calculated that GRL owed 11 I/Os \$7,463.98 in outstanding FSC payments for the quarter (July, August, September 2019). The auditor determined that GRL began paying the correct FSC in October 2019.
7. The auditor advised GRL of her calculations and asked that GRL pay its I/Os the money owing and demonstrate that payment had been made. GRL demonstrated that full payment had been made to the 11 I/Os and the auditor confirmed payment.
8. Having established that GRL paid its I/Os a hybrid of trip and hourly rates during the Initial Audit Period, the auditor expanded the scope of the audit and requested payroll records for December 2020 (the period in which GRL provided container trucking services ("CTS") to Canadian Tire – a company that requires hourly payment of drivers) to determine the extent of GRL's hybrid payment practices prior to May 2021.
9. The auditor reviewed the December 2020 records and determined that GRL was utilizing a hybrid pay model in December 2020 when its drivers performed work for Canadian Tire. GRL was paying the correct hourly and trip rates as well as the correct FSC during the period.
10. The auditor also confirmed that GRL stopped paying its I/Os trip rates in May 2021, ending its practice of hybrid rate payment.

### **The Complaint**

11. The matter of the alleged truck tag sale was investigated by the OBCCTC and resolved through a separate process.
12. The auditor was tasked with reviewing the Complainant's records and comparing them with GRL's to determine if the Complainant had been paid for all CTS hours provided. The Complainant provided timesheets for June 15, 2021, and assorted pay stubs from the period between March and June 2021.
13. The auditor requested payroll records for all GRL I/Os who performed CTS in May and June 2021. The auditor received the records and compared them with the Complainant's and determined that the Complainant had worked more hours than listed on the payroll records provided by GRL on June 15, 2021. Specifically, the auditor calculated that the Complainant's timesheet recorded 2.25 hours of work that day which were not recorded on GRL's records.
14. The auditor asked GRL for an explanation and was advised that GRL paid the Complainant based on the timesheets he handed in and that GRL had no knowledge of the other timesheets provided by the Complainant. GRL denied asking its drivers to keep separate timesheets with less hours on them. The auditor contacted all GRL's other I/Os, who confirmed that they are paid for all hours they work and do not keep separate timesheets.

15. Port of Vancouver records were compared with the Complainant's timesheets to identify any unrecorded hours when the Complainant was at a port terminal. None were identified and the auditor reports that the Complainant was paid for all hours in the period in which he worked at port terminals.
16. The auditor confirmed that the Complainant's hours were reduced in March 2021, but GRL denies that it reduced the Complainant's hours because he refused to alter his logbook. GRL states that the Complainant requested less hours due to personal reasons. The Complainant confirms that he requested less hours but states that GRL reduced his hours by too much.
17. The Complainant was unable to provide any further documentation to support his allegations.

### **Summary**

18. The auditor reviewed GRL's records for the periods of June 2018, July-October 2019, April 2020 and May and June 2021. The auditor determined that GRL paid its I/Os the correct rates but failed to pay the correct FSC in July, August and September 2019 and paid its I/Os hybrid rates when CTS were provided to certain customers until May 2021 when GRL began exclusively paying hourly rates to its drivers.
19. GRL was found to be owing \$7,463.98 in FSC payments. GRL has paid the money owing and has corrected its pay structure.
20. The auditor investigated a complaint from a driver who alleged he was not paid for all CTS hours performed. The auditor identified 2.25 hours of missing hours on an alternate timesheet for June 15, 2021. GRL denies paying the Complainant incorrectly and no other GRL drivers corroborated the Complainant's allegation. Port of Vancouver records did not identify any missing, unpaid hours of on-dock activity.
21. The auditor concluded her report by noting that GRL's records were organized and readily available upon request.
22. GRL was provided a copy of the auditor's report on December 20, 2021 for review and was provided an opportunity to respond. GRL did not respond by the required deadline.

### **Decision**

23. I have considered the auditor's report and for the reasons set out below, I find GRL to be in violation of the Act for failure to pay its I/Os the correct FSC and in violation of Appendix A 1(g) of the CTS Licence for paying its I/Os by a method of compensation that is a hybrid of per trip and hourly. I find the complaint to be unsubstantiated.
24. GRL concedes that it did not pay the correct FSC, has corrected its practices and paid its drivers the money owing in FSC payments.
25. Hybrid rate payments are prohibited under the CTS Licence. GRL paid I/Os a hybrid of trip and

hourly rates. The use of hybrid rate payments and the history of the prohibition have been addressed in other decisions and do not require repeating here.<sup>1</sup>

26. GRL was paying a hybrid of trip and hourly rates to drivers when they performed work for Ray-Mont Logistics, Columbia Containers and Canadian Tire. As a licensee, GRL is required to adhere to the terms of its licence and refrain from prohibited practices including making hybrid rate payments. GRL ought to be aware of the conditions of its licence and is responsible for reviewing decisions of the Commissioner to ensure its practices are in compliance with the *Act*.
27. Respecting the complaint, there is insufficient evidence to demonstrate that GRL has violated the *Act*. The Complainant alleges that GRL told him to alter his timesheet to record fewer working hours and when he did not, he was given less work. GRL denies this allegation. The auditor compared a June 15, 2021 timesheet provided by the Complainant to the corresponding timesheet provide by GRL and noted a 2.25-hour discrepancy between the hours listed on the two timesheets. GRL states that the Complainant was paid for the time recorded on the timesheet he handed in and the Complainant was unable to provide any other records in support of his allegation.
28. The auditor called GRL's other drivers who all stated that they were paid correctly and did not keep alternate timesheets at GRL's request. The auditor reviewed GRL's records for other months the Complainant worked and procured records from the Port of Vancouver which she compared to the Complainant's. No missing hours were identified.
29. GRL denied reducing the Complainant's hours because he refused to alter his logbook. GRL states that the Complainant requested less hours due to personal reasons. The Complainant confirmed that he asked GRL for less hours but states that when GRL granted his request, they gave him less hours than he wanted.
30. There is a lack of supporting evidence to substantiate the complaint. GRL's records were compared with those of an independent third party (Port of Vancouver) and the hours on both sets of records aligned. The auditor also compared the Complainant's alternate records with the Port of Vancouver records. No discrepancies were identified. No other GRL drivers corroborated the Complainant's allegations, and the Complainant was unable to provide additional records demonstrating underpayment. The Complainant's June 15, 2021 timesheet notwithstanding, I am satisfied that the Complainant was paid correctly for the CTS he provided.
31. I have also considered the Complainant's allegation that GRL reduced his hours because he refused to alter his logbook. It is not a violation of the *Act* to reduce a driver's hours unless it can be demonstrated that the reduction was directly linked to making a complaint or was done to influence a driver's right to compensation. In this case, the Complainant's hours were reduced in March 2021 at his request, and it was for GRL to determine the size of the reduction. Failure to please a driver is not a violation of the *Act*.

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<sup>1</sup> See for example: [Lower Mainland Fast Freight](#) (CTC Decision No. 07/2018); [Orca Canadian Transport Ltd.](#) (CTC Decision No. 13/2018); [Olympia Transportation Ltd.](#) (CTC Decision No. 10/2021); and [Aheer Transportation Ltd.](#) (CTC Decision No. 01/2021).

32. In these circumstances, I have concluded that an administrative fine is appropriate for GRL's failure to pay its I/Os FSC and because GRL violated Appendix A 1(g) of its CTS licence by paying drivers a hybrid of hourly and trip rates.
33. Regarding the size of the proposed fine, I have decided that an administrative penalty of \$5,000.00 is appropriate in this case. In assessing an appropriate penalty, the factors which have been taken into account include GRL's previous compliance history, the harm suffered by its drivers and the degree to which it was enriched, GRL's cooperation with the audit, its payment of the money found to be owing and penalties levied in similar circumstances.
34. GRL failed to pay the correct FSC in one quarter and owed its I/Os over \$7,463.98 as a result. This is not a substantial amount and the impact of the non-compliance on the drivers is low. GRL cooperated with the auditor, paid the money calculated to be owing and corrected its practices immediately. Nevertheless, GRL was paying hybrid trip rates, despite hybrid payments being prohibited in its licence, which it ought to have known.
35. This is GRL's second audit but its first findings of non-compliance. In previous decisions, licensees have been penalized between \$5,000.00 and \$10,000.00 for similar infractions.
36. In the result and in accordance with section 34(2) of the *Act*, I hereby give notice as follows:
  - a. I propose to impose an administrative fine against GRL Freightways Ltd. in the amount of \$5,000.00;
  - b. Should it wish to do so, GRL Freightways Ltd. has 7 days from receipt of this notice to provide the Commissioner with a written response setting out why the proposed penalty should not be imposed;
  - c. If GRL Freightways Ltd. provides a written response in accordance with the above, I will consider its response and I will provide notice to GRL Freightways Ltd. of my decision to either:
    - i. Refrain from imposing any or all of the penalty; or
    - ii. Impose any or all of the proposed penalty.
37. This decision will be delivered to GRL Freightways Ltd. and may be published on the Commissioner's website after GRL Freightways Ltd.'s response period has closed ([www.obcctc.ca](http://www.obcctc.ca)).

Dated at Vancouver, B.C., this 3<sup>rd</sup> day of February, 2022.



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Michael Crawford, Commissioner