



February 21, 2025

West Coast Freight Ltd.  
19675 98 Ave.  
Langley, BC V1M 2X5

**Commissioner Decision**  
**West Coast Freight Ltd. (CTC Decision No. 06/2025)**

**Introduction**

1. West Coast Freight Ltd. (“WCF”) is a licensee within the meaning of the *Container Trucking Act* (the “Act”).
2. Section 16(1)(b) of the *Act* states that a licensee must carry out container trucking services in compliance with:
  - (i) this Act and the regulations,
  - (ii) the license, and
  - (iii) if applicable, an order issued to the person under the Act.

3. 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 via the Rate Order and licensees must comply with those statutorily established rates. 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.

4. On May 1, 2023, the Rate Order included an Overtime Rate for directly employed operators (“company drivers”) for hours worked more than 9 hours per day and 45 hours per work week.
5. Under section 24(1) of the *Container Trucking Regulation* (“*Regulation*”), a licensee must pay remuneration owed to a company driver at least semi-monthly and no later than 8 days after the end of a pay period.
6. Under section 24 of the *Act*, a license may not solicit or receive, directly or indirectly, a financial set-off, commission or rate deduction or rebate from a trucker. Section 2 of Appendix E to Schedule 1 of the CTS license prohibits a licensee from setting off or deducting Business Costs from a trucker’s compensation.
7. Under section 31 of the *Act*, the Commissioner may conduct an audit or investigation to ensure compliance with the *Act*, the *Regulation* or a licence.

8. WCF has been the subject of two previous decisions. In West Coast Freight Ltd. (CTC Decision No. 18/2017), WCF was found non-compliant with the *Act* and *Regulation* after failing to pay its drivers the regulated rates and was ordered to pay its company drivers \$4,659.93. The Commissioner exercised his discretion and did not impose an administrative penalty. In West Coast Freight Ltd. (CTC Decision No. 15/2023), I found that WCF had used untagged trucks to perform container trucking services, contracted out container trucking services to a non-licensee in breach of its CTS license, and failed to pay its drivers within 8 days of the end of the pay period in accordance with section 24(1) of the *Regulation*. An administrative fine of \$1,500 was issued.
9. On July 16, 2024, WCF was advised that it was the subject of a random audit for the period between June 1, 2020 and May 31, 2024 (“Audit Scope”) to determine if its drivers were paid the minimum rates required and was requested to provide certain payroll records.

### **Audit Report**

10. The OBCCTC requested and WCF provided payroll records for July and December 2020, March and October 2021, August and May 2022, January and July 2023, and May 2024 (“Audit Period”).
11. The auditor confirmed WCF drivers take an unpaid lunch break each workday but noted one driver was recorded as having taken lunch breaks on days he did not work between January 16 to 31, 2023. WCF advised that it had mistakenly deducted two 30-minute lunch periods on days the driver did not work and provided evidence that the error was corrected the following pay period and that the driver was paid on February 28, 2023.
12. The auditor confirmed WCF paid daily Overtime Rates for more than 9 hours in a day to drivers in July 2023 but did not pay the weekly Overtime Rate for hours worked above 45 hours a week in May 2024. WCF did not provide the auditor with an explanation for the error. The auditor determined WCF owed drivers \$228.42 for weekly overtime hours worked in May 2024.
13. The auditor reviewed the drivers’ hours in July 2023 (the only other month in the Audit Period after the Overtime Rate was introduced effective May 1, 2023) and confirmed that none of the drivers worked more than 45 regular hours in a work week; the auditor was therefore unable to determine if WCF’s failure to pay the weekly Overtime Rate in May 2024 was a one-time error. The auditor did not receive a response from WCF when she sought an explanation and observed the error may have also occurred in months outside the Audit Period after May 1, 2023.
14. The auditor determined two drivers were not paid the regulated rates when WCF failed to adjust their hourly rate upon the drivers’ meeting the 2,340 hours of work threshold. The auditor determined that a total of \$1,575.47 was owing for this reason.
15. The auditor determined WCF improperly deducted Business Costs (a red-light violation penalty<sup>1</sup> and another unrelated fine from the Vancouver Fraser Port Authority<sup>2</sup>) from two company drivers’ wages in December 2020, totaling \$242.00.

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<sup>1</sup> I understand that this ticket was issued to the registered owner of the vehicle under the *Motor Vehicle Act*.

<sup>2</sup> Licensees enter into an Access Agreement with the Vancouver Fraser Port Authority and a condition of that license is that penalties can be assessed against the licensees for certain infractions.

16. On October 22, 2024, the auditor completed an audit report ("Audit Report") and summarized her conclusions as follows:
- a) WCF deducted a total of 1 hour in wages from a driver's pay in January 2023 on days that driver did not work and the unpaid hour was paid to the driver in a subsequent pay period.
  - b) WCF did not pay the weekly Overtime Rate for its drivers in May 2024 and owed a total of \$228.42 as a result.
  - c) WCF failed to adjust the regulated rate for two drivers upon their meeting the 2,340 hour threshold and a total of \$1,575.47 was owing.
  - d) WCF improperly deducted \$242.00 in Business Costs from two drivers in December 2020.
17. On October 29, 2024, the OBCCTC sent a copy of the Audit Report to WCF and provided an opportunity to submit a response no later than November 28, 2024. WCF provided a response by the deadline.

#### **Licensee Response**

18. WCF does not appear to dispute the auditor's finding that it failed to adjust the two drivers' hourly rate after each driver had performed 2,340 hours of container trucking services. WCF explains that the transition in hours (and the associated rate increase) occurred within a pay period and WCF's payroll system does not permit two different pay rates within a single pay period. It states that the difference in earnings was applied to the drivers' wages on September 9, 2024 after it was advised of the error by the auditor and it provided wages statements showing a total of \$1,357.39 paid. WCF states that there is still \$146.86 owing to the two drivers.
19. WCF acknowledges it did not provide a response to the auditor's inquiry about the missed weekly overtime in May 2024 and explains that it understood that the auditor's correspondence was a statement rather than a question. Regardless, WCF does not appear to dispute the auditor's finding that \$228.42 is owing to two drivers for work performed in May 2024 as a result of its failure to pay weekly overtime.
20. WCF states that it understands that it cannot deduct "tickets/fines" from a driver's wages without signed authorization and that it understands drivers are responsible for fines – traffic or otherwise – that are outside of WCF's control. WCF states that it is willing to repay the deductions of \$242.00 if the deductions were improper.
21. Finally, WCF states that it is committed to ensuring compliance with all regulations going forward.

#### **Decision**

22. WCF does not challenge the overall findings of the Audit Report.
23. I accept the uncontroverted findings of the Audit Report regarding WCF's failure to pay a driver his wages in accordance with section 24(1) of the *Regulation* after it improperly deducted an hour for

lunch breaks in January 2023.

24. I also accept that WCF failed to pay the weekly Overtime Rate to two drivers in May 2024 in breach of section 23 of the *Act* and the drivers in question are owed a total of \$228.42 as a result. In addition, WCF did not challenge the auditor's observations regarding overtime generally and I will address that issue below in my orders.
25. I accept the uncontroverted findings of the Audit Report regarding WCF's failure to pay the regulated rates within 8 days of the pay period in which the wages were earned to two drivers after they had worked 2,340 hours and I find that WCF was in breach of section 23 of the *Act* as a result. The auditor calculated, and I accept, that the drivers were underpaid a total of \$1,575.47 and they were paid \$1,357.30 by WCF on September 9, 2024, leaving a difference of \$218.17 still outstanding. It is unclear how WCF determined it only owed \$146.86 but I find the amount owing to the two drivers is \$218.17 based on the best available information before me.
26. Turning to the payroll deductions for fines, I find that the fines are financial set-offs under the *Act* and Business Costs as defined in the CTS license. I infer from the information provided in the Audit Report and WCF's submission that the fines were assessed against WCF, and that WCF then deducted the amounts from the company drivers' compensation. The issue of whether not the company driver was practically responsible for the infraction is not for me to decide. The fact is that the fines were issued to WCF as the registered owner of the vehicle and/or as a party to an access agreement. This is one of the reasons I find that those fines were associated with WCF's operation of its business and are therefore WCF's responsibility.
27. The deductions in question here are similar to missed reservation fees. In Pro West Trucking Ltd. (CTC Decision No. 08/2023), I determined that missed reservation fees were costs of doing business ("Business Costs") and the deduction of those fees from driver wages was in breach of section 24 of the *Act* and Appendix E of the licence.
28. Section 24(1) of the *Act* strictly prohibits a licensee from soliciting or receiving, directly or indirectly a "financial set-off," commission or rate deduction and section 2 of Appendix E to Schedule 1 of the CTS license prohibits a licensee from setting off or deducting Business Costs from a company driver's compensation. In either case, a company driver's agreement to pay the fine (by payroll deduction or outside of his pay cheque) would still not be compliant with these strict restrictions. In my opinion, this is because the protection of driver wages from licensee cost recoveries is necessary and a key part of the beneficial legislation and the CTS license, both of which are meant to ensure that drivers receive the minimum regulated rates for performing container trucking services. It is simply not open to licensees to deduct these fines from drivers' wages or to request or receive repayment for them. I find that the December 2020 deductions were Business Costs and financial set-offs in breach of section 2 of Appendix E to Schedule 1 of the CTS license and section 24(1) of the *Act*.
29. I must add one final comment on the issue of tickets and fines, lest anyone leave with the impression that a licensee is responsible for all types of violations that occur while an employee is at work. Drivers make mistakes in their jobs every day and occasionally these mistakes cost a licensee, but this does not mean that licensees necessarily have the right to be reimbursed for

those costs through payroll deductions or otherwise. Employers have many ways of addressing a driver's failure to follow rules, arrive at the appropriate time for a reservation, etc., but making those drivers responsible for a business cost is not one of them.

30. An important consideration when determining if a fine is a business cost is the named recipient of the fine. In this case, the fines were issued to WCF. However, if the police had pulled a driver over and issued him a speeding ticket, then the fine would have been issued against the driver personally and not against the registered owner of the vehicle. Similarly, if an I/O is the registered owner of a vehicle and a fine is issued against the registered owner, the I/O, not the licensee, would be responsible for the fine (and the IO could not deduct the expense from an IEO). Furthermore, in the case of a driver issued a ticket personally, there would likely be no issue of a payroll deduction as the fine would not be sent to the licensee.
31. Section 34 of the *Act* provides that, if the Commissioner is satisfied that a licensee has failed to comply with the *Act* or the terms of its licence, the Commissioner may impose a penalty or penalties on the licensee. Available penalties include suspending or cancelling the licensee's licence or imposing an administrative fine. Under section 28 of the *Regulation*, an administrative fine may not exceed \$500,000 in cases relating to the payment of remuneration, wait time remuneration or fuel surcharge. In any other case an administrative fine may not exceed \$10,000.
32. The seriousness of the available penalties indicates the gravity of non-compliance with the *Act*. The *Act* is beneficial legislation intended to ensure that licensees pay their employees and independent operators in compliance with the rates established by the legislation. Licensees must comply with the legislation, as well as the terms and conditions of their licenses, and the Commissioner is tasked under the *Act* with investigating and enforcing compliance.
33. In keeping with the above-described purpose of the legislation, the factors which will be considered when assessing the appropriate administrative penalty include the following as set out in Smart Choice Transportation Ltd. (OBCCTC Decision No. 21/2016):
  - The seriousness of the respondent's conduct;
  - The harm suffered by drivers as a result of the respondent's conduct;
  - The damage done to the integrity of Container Trucking Industry;
  - The extent to which the licensee was enriched;
  - Factors that mitigate the respondent's conduct;
  - The respondent's past conduct;
  - The need to demonstrate the consequences of inappropriate conduct to those who enjoy the benefits of having a CTS licence;
  - The need to deter licensees from engaging in inappropriate conduct; and
  - Orders made by the Commission in similar circumstances in the past.
34. WCF failed to pay the minimum regulated rates to some of its drivers and made improper payroll deductions during the Audit Period. Although some of the monies owed were eventually paid to the drivers in question, they were not paid within the timeline set out in section 24(1) of the *Regulation*. Underpayment, failure to pay, improper deductions and delayed payments are serious. I agree that the overall amount identified as owing by WCF at this time is not egregious

(although it may be higher following WCF's review). I also recognize that WCF took steps – albeit belatedly – to attempt to correct some of those errors. However, WCF was previously found to be in breach of section 23 of the *Act* and section 24(1) of the *Regulation* and ought to understand the importance of paying the minimum regulated rate and paying the rates in accordance with the *Regulation*.

35. I have decided that an administrative penalty of \$6,000 is appropriate. In assessing the appropriate penalty, I am mindful that WCF has been previously found to be in breach of section 23 of the *Act* and section 24(1) of the *Regulation*.
36. In the result and in accordance with section 9 of the *Act*, I hereby order WCF to do the following no later than 30 days following the date of this decision:
- a) review its payroll records between May 1, 2023 and April 30, 2024 to ensure it is compliant with the Rate Order with respect to daily and weekly Overtime Rates and report its findings to the OBCCTC;
  - b) review its payroll records for the Audit Scope and reimburse any driver who had fines as described in this decision or other Business Costs deducted from his wages and report its findings to the OBCCTC;
  - c) review its payroll records for the Audit Scope to ensure it has not failed to properly pay any drivers the correct rate after they had worked 2,340 hours and report its findings to the OBCCTC; and
  - d) pay the respective drivers named in the Audit Report the following amounts and confirm to the OBCCTC that it has done so:
    - i. \$228.42 for missed overtime in May 2024;
    - ii. \$218.17 for the balance of unpaid wages owed for failing to adjust the hourly rate after 2,340 hours; and
    - iii. \$242.00 for improper deductions in December 2020.
37. In accordance with section 34(2) of the *Act*, I propose an administrative fine against WCF in the amount of \$6,000.00.
38. Should it wish to do so, WCF has 7 days from the receipt of this notice to provide the Commissioner with a written response setting out why the proposed penalty should not be imposed.
39. If WCF provides a written response in accordance with the above, I will consider its response and I will provide notice 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.

### **Conclusion**

40. In summary, WCF has been found in violation of the *Act*, the *Regulation* and its license for making improper deductions, failing to pay the minimum regulated rates and failing to pay the regulated

rates in accordance with the timelines set out in the *Regulation*. I have proposed a penalty of \$6,000.00.

41. This decision will be delivered to the licensee and will be published on the OBCCTC's website ([www.obcctc.ca](http://www.obcctc.ca)) after the deadline for WCF's written response has expired.

Dated at Vancouver, B.C., this 21<sup>st</sup> day of February 2025.

A handwritten signature in blue ink, appearing to read "Glen MacInnes". The signature is fluid and cursive, with the first name "Glen" and last name "MacInnes" clearly distinguishable.

Glen MacInnes  
Commissioner