



May 1, 2025

Best Can Trucking Ltd.
7541 149A Street
Surrey, BC V3S 3H6

Commissioner's Decision
Best Can Trucking Ltd. (CTC Decision No. 12/2025)

Introduction

1. Best Can Trucking Ltd. ("Best Can") is a licensee within the meaning of the *Container Trucking Act* (the "Act").
2. 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 ("Rate Order"), 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.

3. Under section 31 of the *Act*, the Commissioner may initiate an audit or investigation to ensure compliance with the *Act*, the *Container Trucking Regulation* ("Regulation") and the Container Trucking Services ("CTS") license whether or not a complaint has been received by the Commissioner.
4. As part of the random audits initiated by the Commissioner, an auditor was directed to audit Best Can to determine if its directly employed operators ("Company Drivers") were being paid the required minimum rates.
5. This is Best Can's third audit conducted by the Office of the BC Container Trucking Commissioner ("OBCCTC"). In Best Can Trucking Ltd. (CTC Decision No. 02/2017), Best Can was found to have failed to pay its drivers the minimum regulated. The Commissioner issued an administrative penalty of \$1,500. In Best Can Trucking Ltd. (CTC Decision No. 03/2022), Best Can was found in breach of its CTS license after systematically destroying payroll documents 6 months after their creation date. The Commissioner issued an administrative penalty of \$1,500.00

Audit Report

6. On July 16, 2024, the OBCCTC sent Best Can a request for records for October and November 2021, March and August 2022, January and March 2023 and April 2024 ("Audit Period").
7. Best Can failed to provide daily timesheets for October and November 2021 stating that this was

consistent with their previous practice of destroying documents after six months. Best Can provided daily handwritten timesheets for drivers but did not provide electronic time summaries for March 2022 and August 2022 and January 2023 and March 2023, stating that the data was unrecoverable due to a computer breakdown.

October and November 2021

8. The auditor confirmed based on a random sample of drivers that Best Can paid the regulated hourly rates for the period of October and November 2021 for the hours recorded on the driver's wage statement but was unable to confirm the drivers were paid for all the hours they worked due to the missing timesheets.

March and August 2022 and January and March 2023

9. The auditor confirmed based on a random sample of drivers that Best Can paid the regulated hourly rates for March and August 2022 and January and March 2023 but the daily written timesheets did not match the hours paid to the drivers in some instances. When asked to explain the discrepancies, Best Can advised that drivers record their daily hours of work using two different steps. One step involves drivers phoning or texting their daily hours to Best Can each day; Best Can then enters these hours into an electronic time sheet. Another step involves drivers writing their start and end time on daily timesheets that are then handed into Best Can. Best Can stated that it considers the daily timesheets unreliable and relies on the electronic time sheets (which are informed by daily texts and phone calls).
10. Since Best Can was unable to provide the electronic time sheets for March and August 2022 and January and March 2023, the auditor relied on the handwritten daily timesheets as the accurate recording of the driver's hours of work and determined that 15 company drivers were underpaid the sum of \$2,634.30 during these four months.

April 2024

11. The auditor confirmed based on a random sample of 15 drivers that the driver's wage statements matched those recorded in the electronic time sheets, but not the driver's handwritten daily time sheets. The auditor determined that 10 of the randomly selected drivers were underpaid a total of \$1,456.81.
12. The auditor confirmed that Best Can paid the randomly selected drivers in question the appropriate minimum regulated rate for daily overtime hours, but three drivers were not paid weekly overtime hours. She determined that three drivers were owed a total of \$542.52 for April 2024 but speculated that Best Can had not calculated weekly overtime since the new rate came into effect on May 1, 2023.

13. Best Can explained that it had difficulty with three drivers whose employment was terminated as a result of “errors on his timesheets”. Best Can provided a termination letter for one of the randomly selected drivers whose employment was terminated on July 31, 2024 after Best Can had previously warned the driver to accurately fill out time sheets and that an investigation had concluded that the hours he submitted did not correspond with the GPS system installed on his truck. The auditor followed up with the driver and he disagreed that this was the reason for his termination or that he received the termination letter Best Can advised it had given him.

Electronic Tracking System

14. The auditor confirmed that until October 2024 Best Can did not have an electronic tracking system that recorded the number of container trucking services (hours or trips) performed in each truck as required pursuant to section 6.7 of the 2022 CTS licence.
15. On November 15, 2024, the auditor issued an audit report (“Audit Report”) and worksheet with her findings and a copy was provided to Best Can on November 18, 2024. Best Can was provided with an opportunity to respond to the Audit Report no later than December 18, 2024. Best Can did not provide a response by the deadline.

Decision

16. I agree with the auditor’s acceptance of the written daily timesheets over the missing electronic timesheets. Best Can failed to provide any evidence contradicting the information contained in the daily timesheets and I do not agree that I should disregard the information simply because Best Can prefers to rely on the electronic time sheets. For one, most of Best Can’s electronic timesheets no longer exist, although Best Can is required to keep them for four years from the date of their creation. Second, the written daily timesheets were contemporaneous documents authored by the drivers. Third, the electronic timesheets were no more than a person receiving information from a driver and then entering it into a database which is more likely to be subject to transposition errors. In the case of the electronic time summaries provided for April 2024, they were not created in accordance with section 6.7 of the CTS license and therefore unable to be corroborated with data from Best Can’s trucks.
17. I accept the undisputed findings of the Audit Report and find that Best Can was in breach of section 23 of the Act when it failed to pay the drivers listed in the worksheet the minimum regulated rate for the reasons set out above in March and August 2022, January and March 2023 and April 2024.
18. While I appreciate Best Can may have found some allegedly fraudulent time theft for one of the drivers identified in April 2024 as being underpaid, I was provided with no direct evidence that any of those concerns covered the Audit Period. Therefore, where there is a discrepancy between a wage statement issued by Best Can and a written daily timesheets from a driver, I accept the information in the written timesheets for the same reasons as set out above.

19. The auditor's calculation of weekly overtime in April 2024 was undisputed and I find that Best Can was in breach of section 23 of the *Act* when it failed to pay the three drivers listed in the worksheet.
20. I further find that Best Can was in breach of Appendix D section (4)(f) of the CTS license when it failed to provide the daily hours worked by each driver in October and November 2021. I accepted the written daily timesheets for March and August 2022 and there was no requirement at the time to provide electronically generated payroll records. However, Best Can's failure to provide electronically generated payroll records for hours of work for each driver in January and March 2023 is in breach of section 6.10 of the 2022 CTS licence.
21. Finally, I find that Best Can was not compliant with section 6.7 of its CTS license when it failed to have an electronic tracking system to record the container trucking services hours and trips between December 1, 2022 and September 30, 2024.
22. The seriousness of the available penalties indicates the potential gravity of non-compliance with the *Act*. The *Act* is beneficial legislation intended to ensure that licensees pay their employees and IOs in compliance with the established rates. Licensees must comply with the legislation, as well as the terms and conditions of their licences, and the Commissioner is tasked under the *Act* with investigating and enforcing compliance.
23. 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.
24. The general importance of proper record keeping has been canvassed extensively in previous audits and communications of the OBCCTC. In Hutchison Cargo Terminal Inc. (CTC Decision No. 27/2018), the Commissioner penalized Hutchison for its failure to produce records and noted that the purpose of the fine was also one of general deterrence. In Orca Canadian Transport Ltd. (CTC Decision No.

09/2020), Orca Canadian Transport Ltd. was penalized \$10,000.00 in part for its non-compliant record keeping practices. In MDW Express Transport Ltd. (CTC Decision No. 02/2024), I explained the purpose of introducing the electronic record keeping requirements and the advance warning provided to the industry around that requirement.

25. I agree with the reasons set out in the three decisions cited above and have considered each in this case.
26. Best Can failed to maintain and produce timesheets for each of its drivers for two of the months of the Audit Period (October and November 2021). I understand that Best Can may have been previously under a misapprehension that it was not required to maintain the payroll records if other regulatory bodies do not require the same, but this was dealt with extensively with Best Can in the previous decision and it should have been aware of its obligations. The fact remains it did not maintain those documents and the auditor was unable to confirm if the wage statements accurately reflected the number of hours each driver worked in the pay period.
27. Best Can also failed to provide electronically generated payroll records for January and March 2023 and I do not find that the assertion that “a computer breakdown” is sufficient enough reason to avoid an administrative penalty. The reasons for the introduction of section 6.7 and 6.10 of the CTS license was well canvassed with the industry in 2022 and its main purpose was introduced to ensure that licensees had an accurate record of the hours worked by each driver. It is important that licensees have systems in place – even redundant electronic systems – to ensure they can produce those records.
28. While Best Can has now equipped its vehicles with electronic tracking systems to record the number of hours worked, nearly two years is a significant period of time to be in breach of its CTS license.
29. While the total amount owed to the drivers (\$4,407.12) is not a large amount of money to be owed between 24 drivers, but it must remember that the auditor selected a sample of drivers in each Audit Period and the Audit Period itself is only a limited number of months over a four-year period.
30. Here, I have decided that an administrative penalty of \$10,000.00 is appropriate. In assessing an appropriate penalty, I acknowledge that Best Can has been previously penalized for failing to pay the regulated rates and not maintaining proper record keeping. This proposed fine should demonstrate to Best Can that it must maintain proper records and pay its drivers the regulated rates. It is consistent with other administrative penalties issued for failing to maintain proper records, failing to maintain an electronic tracking system and failing to pay the regulated rates.
31. The outstanding matter is those drivers who were not audited in each month of the Audit Period and those months not covered by the Audit Period. I will order Best Can to review its payroll records between June 1, 2021 and April 2025 to ensure that similar errors found in this decision are

corrected.

32. In the result and in accordance with section 9 and 34(2) of the *Act*, I hereby order and give notice as follows:

- a. I order Best Can to pay the drivers included in the worksheet a total \$4,407.12 less any statutory deductions and provide evidence of the same to the auditor within 15 days of the date of this decision.
- b. I order Best Can to review its payroll records between January 1, 2022 and April 30, 2025 (with the exception of those of the randomly selected drivers in March 2022 and August 2022 and January 2023 and March 2023 and April 2024) and report all discrepancies between each driver's written daily timesheets and the hours reported in their wage statements within 30 days of the date of this decision.
- c. I order Best Can to review its payroll records between May 1, 2023 and April 30, 2025 (with the exception of April 2024) and calculate any weekly overtime not paid to each driver and report the same to the auditor within 30 days of the date of this decision.
- d. I propose to impose an administrative fine against Best Can in the amount of \$10,000.00.

33. Should it wish to do so, Best Can 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.

34. If Best Can provides a written response in accordance with the above, I will consider its response and I will provide notice to Best Can of my decision to either:

- Refrain from imposing any or all of the penalty; or
- Impose any or all of the proposed penalty.

35. This decision will be delivered to Best Can and will be published on OBCCTC's website (www.obcctc.ca) after Best Can's response period has been closed.

Dated at Vancouver, B.C., this 1st day of May 2025.

A handwritten signature in blue ink, appearing to read 'Glen MacInnes', is written over a light blue horizontal line.

Glen MacInnes
Commissioner