



May 02, 2025

Forfar Enterprises Ltd.  
8-15055 20 Avenue  
Surrey, BC V4A 9Y2

**Commissioner's Decision**  
**Forfar Enterprises Ltd. (CTC Decision No. 13/2025)**

**Introduction**

1. Forfar Enterprises Ltd. ("Forfar") 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. Under section 40 of the *Act*, a licensee must comply with an order issued by the Commissioner.
5. On March 21, 2023, Forfar was advised via a letter that it was the subject of an audit for the period of March 1, 2019 to March 1, 2023 and that it was required to produce certain payroll records. The letter also advised Forfar not to dispose of any records in its possession "until this audit, any further proceedings arising out of this audit, have ended" ("March 21, 2023 Request Letter"). An audit report was issued on July 17, 2023 and Forfar provided a submission in response on August 23, 2023.
6. In Forfar Enterprises Ltd. (CTC Decision No. 10/2023), ("Original Decision"), I found Forfar failed to increase the minimum regulated rates paid to its drivers after the Rate Order changed on July 1, 2019 and failed to maintain electronic payroll records. I also ordered Forfar, *inter alia*, to calculate and pay the difference between the applicable regulated rate and the wages paid to drivers between July 1, 2019 and March 31, 2020 (the date Forfar eventually started to pay the minimum regulated rate) within 30 days of the Original Decision ("Order"). The Original Decision was issued on September 19, 2023 and the deadline to comply with the Order was no later than October 19, 2023.

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**Compliance Audit Report**

7. On August 21, 2024, the auditor advised Forfar that an audit had been initiated to ensure it was compliant with the Order ("Compliance Audit"). The auditor requested driver records for pay periods in October 2019, April and September 2020 and July 2024 ("Audit Period").
8. On September 4, 2024, Forfar provided some of the records requested and after several follow up discussions Forfar was able to provide all the requested payroll information with the exception of wage statements and cancelled cheques for October 2019 ("Missing Payroll Records"). Forfar explained that the Missing Payroll Records were damaged due to a flood.
9. At the time the Compliance Audit was initiated, Forfar had not yet completed the calculations required in the Order but undertook to complete the calculations and provided the auditor with its results on November 19, 2024. The auditor confirmed Forfar's calculations of \$2,434.25 were correct and confirmed each driver was paid by February 7, 2025.<sup>1</sup>
10. On February 19, 2025, the auditor prepared a compliance audit report ("Compliance Audit Report") stating that Forfar had failed to comply with the Order by required deadline but had eventually calculated and paid the drivers monies owing between July 1, 2019 and March 31, 2020. The auditor also determined that Forfar's failure to produce the Missing Payroll Records was in breach of Appendix D section (4)(b) of the container trucking licence.
11. Forfar was provided with a copy of the Compliance Audit Report on March 3, 2025 and was invited to provide a response no later than April 3, 2025. Forfar provided a submission by the deadline.

**Licensee Response**

12. Forfar does not dispute the facts set out in the Compliance Audit Report.
13. Forfar disagrees with the auditor's assessment that its failure to produce the Missing Payroll Records was in breach of Appendix D section (b)(4) of the CTS license. Forfar states that the CTS license only requires licensees to keep payroll records for four years and since the requests to produce the Missing Payroll Records was made on August 21, 2024, it cannot be found in breach of its CTS license as it was not required to keep the Missing Payroll Records.
14. Forfar maintains that it paid the wages "as requested" and provided the required documentation in a timely manner.

**Decision**

15. While I understand that Forfar eventually complied with the Order on February 7, 2025, the deadline to comply with the Order was no later than October 19, 2023. The fact remains Forfar failed to comply with the Order by the deadline and therefore is in breach of section 40 of the Act.

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<sup>1</sup> With the exception of one driver whose pay could not be deposited because the driver has recently passed away.

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16. I am not persuaded that Forfar was not required to produce the Missing Payroll Records because the time required to maintain those records had elapsed. The March 21, 2023 Request Letter required Forfar to retain payroll records in its possession (including the Missing Payroll Records) pending the audit and any proceeding arising from the audit. The Original Decision included an Order that Forfar calculate pay for a period that included the Missing Payroll Records. The Compliance Audit was part of the initial audit or a proceeding arising from the Original Decision.
17. Section 6 of the *Act* provides that the Commissioner may make rules regarding audits. Section (d) of Part D, “Audit and Inspections,” of the OBCCTC Rules of Practice and Procedure require licensees to maintain all records as of the date an audit or investigation is initiated until the audit, investigation, and any associated administrative and/or judicial proceedings have ended. Section 25 of the *Act* requires licensees to keep records as required by the Commissioner. I understand that Appendix D of the CTS licence requires licensees to maintain payroll records for 4 years and the request for the October 2019 records were beyond that period of time and therefore may not be applicable. However, I find that Forfar was required to keep the October 2019 payroll records pursuant to the instructions set out in the March 21, 2023 Request Letter, section (d) of Part D, “Audit and Inspections,” of the OBCCTC Rules of Practice and Procedure.
18. All of the above, and the March 21, 2023 Request Letter and the Order compelled Forfar to maintain the Missing Payroll Records and its failure to do so was in breach of section 25 of the *Act*. Furthermore, I do not accept that a flood excuses Forfar from retaining the required payroll records.
19. Section 34 of the *Act* provides that, if the Commissioner is satisfied that a licensee has failed to comply with the *Act*, the Commissioner may impose a penalty or penalties on the licensee. Available penalties include suspending or cancelling the licensee’s license or imposing an administrative fine. Under section 28 of the *Regulation*, an administrative fine for a contravention relating to the payment of remuneration, wait time remuneration or fuel surcharge can be an amount up to \$500,000. In any other case, an administrative fine can be up to \$10,000.
20. 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.
21. 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. (CTC 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;

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- 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.
22. In cases where orders involving payment of wages to drivers have not been followed, monetary penalties and suspensions of a license have been proposed because of the seriousness of not following a Commissioner's order and the need to ensure the licensee pays its drivers the money it owes – see Can American Enterprises Ltd. (CTC Decision No. 12/2020), Pro West Trucking Ltd. (CTC Decision No. 14/2024), and Embassy Transportation Inc. (CTC Decision No. 13/2024).
23. The failure to maintain complete, accurate and up-to-date records is regarded as serious violation of a licensee's obligation under the legislation and interferes with the OBCCTC's fulfillment of its rate compliance mandate and its ability to properly perform audits in a timely and accurate way – see HAP Enterprises Ltd (CTC Decision No. 17/2016).
24. I adopt the analysis in each of these cases.
25. The failure to comply with the Order by the deadline has compounded the delay in payment to these drivers who have already been affected by Forfar's failure to pay the minimum regulated rate. In addition, the maintenance of complete, accurate and up-to-date records by licensees is essential to the OBCCTC's fulfillment of its rate compliance mandate and its ability to properly perform audits in a timely and accurate way.
26. Forfar has now complied with the Order and a proposed suspension of its license is not necessary to generate compliance. While the outstanding amount was relatively small, payment to the drivers was delayed for an extended period. I do not accept Forfar's assertion that I should consider its co-operation considering that I was provided with no explanation for the delay in the complying with the Order by the deadline. I have also considered Forfar was issued an administrative penalty of \$1,500 for failing to pay the minimum regulated rate in Forfar Enterprises Ltd. (CTC Decision No. 20/2016) and was issued a \$3,000 administrative penalty for failing to pay the minimum regulated rates and maintain proper payroll records in the Original Decision.
27. In the result and in accordance with section 34(2) of the *Act*, I hereby order and give notice as follows:
- a. I propose to impose another administrative fine against Forfar in the amount of \$5,000.00.
28. Should they wish to do so, the Forfar 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;
- If Forfar provides a written response in accordance with the above, I will consider that response and I will provide notice to Forfar of my decision to either:
    - Refrain from imposing any or all of the penalty; or

- Impose any or all of the proposed penalty.

29. This decision will be delivered to Forfar and will be published on the Commissioner's website ([www.obcctc.ca](http://www.obcctc.ca)) after Forfar's response period has been closed.

Dated at Vancouver, B.C., this 2<sup>nd</sup> day of May 2025.

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

Glen MacInnes  
Commissioner