



May 09, 2025

Smart Choice Transport Ltd.  
34565 Delair Road  
Abbotsford, BC V2S 2E1

**Commissioner's Decision**  
**Smart Choice Transport Ltd. (CTC Decision No. 14/2025)**

**Introduction and Background**

1. Smart Choice Transport Ltd. ("Smart Choice") 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 via a Rate Order, and a licensee must comply with those 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.

3. Section 24 of the *Container Trucking Regulation* ("Regulation") requires a licensee to pay remuneration to directly employed operators ("company drivers") within 8 days after a pay period and independent operators ("IOs") no later than 30 days after the end of the calendar month in which the IO performed the container trucking services.
4. 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.
5. In January 2025, IOs working at Smart Choice complained to the Office of the BC Container Trucking Commissioner ("OBCCTC") that they had not received any wages from Smart Choice for container trucking services performed in December 2024.
6. Smart Choice has been the subject of three previous audits, and it was determined *inter alia* that it failed to pay the regulated rates to drivers in each audit. In Smart Choice Transport Ltd. (CTC Decision No. 03/2016), Smart Choice was ordered to pay its drivers \$55,175.00 and the Commissioner exercised his discretion and did not impose a penalty. In Smart Choice Transport Ltd. (CTC Decision 21/2016), Smart Choice was ordered to pay \$91,848.00 in wages and to pay an administrative fine of \$8,000.00. In Smart Choice Transport Ltd. (CTC Decision No. 01/2025), Smart Choice was ordered to pay a total of \$7,156.87 in wages and an administrative fine of \$12,000.00.

**Audit Report**

7. On February 21, 2025, the auditor advised Smart Choice that an audit had been initiated as the result of a complaint that its drivers had not been paid in accordance with the *Regulation* since December 2024. The auditor requested and Smart Choice provided driver records for pay periods between December 1, 2024 and February 8, 2025 ("Audit Period").
8. The auditor reviewed the payroll records and determined that each company driver and IO had been paid for work performed in December 2024 but not all were paid for the December work within the timelines set out in section 24 of the *Regulation*.
9. The auditor reviewed the January and February 2025 payroll records and determined that the majority of Smart Choice's company drivers had not received payment for any work performed between January 12 to February 8, 2025, for a total amount owing of \$63,478.64. The auditor also determined that three IOs were not paid for work performed in January 2025 for a total amount owing of \$50,673.58.
10. The following chart shows the amounts owed and the date those amounts were paid (or not paid) as of the date of the auditor's review:

Pay Period	Total Payroll owed to Drivers by Deadline	Payment Deadline	Payment Made by date of Audit Report	Payment Date
December 1-31, 2025	\$54,376.30	January 30, 2025	\$54,376.30	February 18, 2025 February 24, 2025
January 1-31, 2025	\$50,673.58	March 2, 2025	\$0.00	No payments made to date*
December 29, 2024 – January 5, 2025	\$10,739.22	January 13, 2025	\$10,739.22	February 6, 2025
January 12 - 18, 2025	\$13,307.08	January 26, 2025	\$0.00	No payments made to date*
January 19 - 25, 2025	\$19,775.26	February 2, 2025	\$0.00	No payments made to date*
January 26, 2025 - February 1, 2025	\$14,166.69	February 9, 2025	\$0.00	No payments made to date*
February 2 - 8, 2025	\$15,929.61	February 16, 2025	\$0.00	No payments made to date*

\*These amounts were paid on March 11, 2025.

11. Smart Choice did not dispute that it failed to pay its drivers at all or failed to pay them within the regulated deadline but explained that it was temporarily unable to make their payroll due to a recent labour dispute at Canada Post that disrupted their accounts receivables from customers.
12. On March 5, 2025, the auditor provided me with an audit report (“Audit Report”) that concluded Smart Choice was in breach of section 24(1) and (2) as it had not paid three IOs and 15 company drivers within the regulated timeframe between December 1, 2024 and February 8, 2025. Furthermore, the auditor determined that Smart Choice owed company drivers a total of \$63,478.64 for four (4) payroll periods (Jan 12-18, Jan 19-25, Jan 26-Feb 1, and Feb 2-8, 2025) and owed IOs \$50,673.58 for the January 1-31, 2025 payroll period.
13. Smart Choice would usually have had an opportunity to respond to the Audit Report before I issued any order. However, because Smart Choice had confirmed the amount owing, and because that amount represented approximately half of Smart Choice’s security, it was important to address the non-payment immediately, as I have also done in other cases involving significant payroll delays. On March 6, 2025, I ordered Smart Choice to pay its drivers the outstanding sum of \$114,152.22 and provide evidence of the same by no later than March 12, 2025 (“Order”).
14. On March 11, 2025, Smart Choice provided evidence that it had paid the outstanding balance of \$114,152.22 to its drivers. The auditor confirmed payment was made to the drivers.
15. On March 19, 2025, Smart Choice was provided with a copy of the Audit Report and invited to provide a submission by March 26, 2025. Smart Choice did not provide a submission by the required deadline.<sup>1</sup>

### **Decision**

16. I accept the undisputed findings of the Audit Report and I am satisfied that Smart Choice complied with the Order by the deadline. I find that Smart Choice was in breach of section 24(1) of the *Regulation* when it failed to pay its company drivers for wages earned within 8 days of the end of the pay period in the following pay periods: December 29, 2024 to January 5, 2025; January 12 to January 18, 2025; January 19 to January 25, 2025; January 26 to February 1, 2025; and, February 2 to February 8, 2025. I also find that Smart Choice was in breach of section 24(2) of the *Regulation* when it failed to pay its IOs wages earned within 30 days of the end of the calendar month for work performed in December 2025 and January 2024.
17. 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.

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<sup>1</sup> Smart Choice advised the OBCCTC on March 25, 2025 that it complied with the Order but I did not consider this email to be a submission.

18. 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.
19. 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.
20. Safeway Trucking Ltd. (CTC Decision No. 10/2018), Roadstar Transport Company Ltd. (CTC Decision No. 20/2018), Embassy Transportation Ltd. (CTC Decision No. 13/2024) and Pro West Trucking Ltd. (CTC Decision No. 14/2024), each discuss the seriousness of repeated failures to pay drivers significant wages within the timelines for lengthy periods of time. Each also deal with the failure to comply with an order. An administrative penalty ranging from \$10,000 to license cancellation was imposed in those cases. I adopt the analyses around the seriousness of these types of infractions in this case.
21. The amount owing to the drivers, the number of drivers affected, and the length of the delays are all substantial and serious in this case. While I accept that Smart Choice may have suffered a financial interruption due to a third-party labour dispute, it should not have transferred some of that burden on to its drivers in the form of lengthy delays in receiving wages. There is no question that this is harmful to the drivers. While Smart Choice eventually paid its drivers, that was only after it received the Order. Non-payment and late payment are not consistent with the *Regulation* or with the purposes of the *Act* --to bring stability to the industry.
22. I have decided that an administrative penalty of \$21,000 is appropriate. This is an escalating penalty. In assessing the appropriate penalty, I am mindful that Smart Choice has committed three similar contraventions, two involving considerable amounts of money, and has had two administrative penalties imposed as a result. The failure of previous penalties to change the licensee's behaviour demonstrates the need for specific deterrence in the form of an increased fine. This penalty also serves a more general deterrent purpose by discouraging licensees from engaging in non-compliant behaviour (thereby protecting drivers).

23. I am also mindful that Smart Choice has now paid the outstanding amounts to each driver – albeit following an order, meaning that payment was late by weeks instead of months, as in the cases of *Safeway, Roadstar, Pro West* and *Embassy*.
24. I propose an administrative fine against Smart Choice in the amount of \$21,000.00 in accordance with s. 34(2) of the *Act*.
25. Should it wish to do so, Smart Choice 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.
26. If Smart Choice provides a written response in accordance with the above, I will consider its response and I will provide notice to Smart Choice 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**

27. In summary, Smart Choice has been found in violation of the *Act*, the *Regulation* and its license for failing to pay regulated rates within the applicable timelines. I have proposed a penalty of \$21,000.00.
28. This decision will be delivered to the licensee and published on the Commissioner's website ([www.obcctc.ca](http://www.obcctc.ca)) after the deadline for Smart Choice's written response has expired.

Dated at Vancouver, B.C. this 9<sup>th</sup> day of May 2025.



Glen MacInnes  
Commissioner