September 19, 2025

TrasBC Freight Ltd.
400 Ewen Ave
New Westminster, BC V3M 5B2

TrasBC Freight Ltd. (CTC Decision No. 25/2025) – Decision Notice

Introduction

1. In TrasBC Freight Ltd. (CTC Decision No. 27/2025) ("Commissioner's Decision") I determined that TrasBC Freight Ltd. ("TrasBC") failed to pay a company driver (Mr. Singh) the regulated rate in accordance with section 23 of the Container Trucking Act ("*Act*") over 13 pay periods between July 16, 2021 and October 30, 2022 and owed $5,659.12 as a result. I also determined TrasBC was in breach of section 24(1) of the *Regulation* when it failed to pay its company drivers – including Mr. Singh - within 8 days after the end of the pay period.

2. I determined that this was an appropriate case to issue a penalty for the reasons set out in paragraphs 19-37. Consistent with s. 34(2) of the *Act*, I proposed to impose an administrative fine against TrasBC in the amount of $3,000.00 and advised TrasBC that I would consider its written response to the proposed penalty if it was received within seven days. I also ordered TrasBC to pay Mr. Singh the sum of $5,659.12 less any statutory deductions and provide evidence of the same within 15 days of the Commissioner's Decision ("Order #1). I also ordered TrasBC to pay its company drivers in accordance with section 24(1) of the *Regulation* ("Order #2").

3. On August 24, 2025, TrasBC requested an extension to the deadline to respond to the Commissioner's Decision and a stay of Order #1 until a decision notice was issued. TrasBC also requested that the Commissioner refrain from publishing the Commissioner's Decision pending a decision notice. On August 26, 2025, TrasBC was granted an extension to respond to the Commissioner's Decision until September 8, 2025 and an extension to comply with Order #2 until September 23, 2025. Finally, TrasBC was reminded that the Commissioner's Decision is not published until the corresponding Decision Notice has been issued.

4. The Office of the BC Container Trucking Commissioner ("OBCCTC") received TrasBC's response to the Commissioner's Decision on August 26, 2025 and September 8, 2025 (together the "Submissions").

Licensee Response

5. TrasBC asks that I refrain from imposing the administrative fine for reasons similar to those addressed in paragraph 14 of the Commissioner's Decision –because the additional payments to Mr. Singh between July 16, 2021, and May 16, 2022 should be considered advance payments "intended to cover potential shortfalls due to accounting errors or inaccurate data entry by drivers, thereby ensuring compliance with Section 24(1)."

6. TrasBC also restates its argument in response to the Audit Report that Mr. Singh never had a "shortfall" of wages as the "banking" of his wages in previous pay periods ensured he was paid the MRRs in each pay period. TrasBC acknowledges that "the salary arrangement for Mr. Singh did not explicitly calculate an hourly rate" but says that his total compensation "was designed to meet or exceed the minimum regulated rates (MRRs)." TrasBC asks that the Commissioner reconsider offsetting overpayments against underpayments because the "advances" were done in "good faith" to address any "potential immigration consequences for Mr. Singh" and were not intended to "frustrate the legislative intent behind the regulations."

7. TrasBC also argues that Mr. Singh's "fixed payment of $3,500 per pay period… with any shortfall to be 'banked' and added to future payroll" is consistent with the concept of "time banks" which it maintains are discussed in a recently published OBCCTC Industry Advisory on wage transparency ("August 2025 Industry Advisory").[1] It also suggests that Mr. Singh consent to "deducting pay" and "banking pay" is consistent with section 22 of the *Employment Standards Act.* Furthermore, TrasBC argues that Mr. Singh's consent is only necessary considering the "lack of clarification provided within the *Regulation* when interpreting an employees banking pay."

8. Finally, TrasBC argues that the proposed administrative penalty is inconsistent with the principles set out in Ferndale Transport Ltd. (CTC Decision No. 05/2022) and Supersonic Trucking Ltd. (CTC Decision No. 11/2023). It says that the decision involving Ferndale suggests that escalating fines are necessary where previous fines have "not sufficiently deterred non-compliance." It says the Supersonic decision shows that and "any corrective actions may lead to a reduction in an administrative penalty." TrasBC maintains that it did not breach section 24(1) of the *Regulation*. In the alternative it says that the administrative penalty should not be escalated based on a prior $1,500 penalty[2]since the issue of "time banks" was not previously addressed and the Industry Advisory issued was "so that [licensees] comply with regulatory standards that are also sometimes confusing to understand and implement, given the ongoing changes in the industry" and was released after the Commissioner's Decision so TrasBC did not have an opportunity to "correct any

[1] TrasBC does not specifically reference the date or name of the Industry Bulletin, but I understand it to mean the Industry Advisory "Wage Statement Transparency" issued on August 21, 2025.

[2] As set out in TransBC Freightways Ltd., Raja Road Rail Services Ltd., TrasBC Freight Ltd. (CTC Decision No. 08/2021)

flaws has in [TrasBC's] version of a 'Time Bank' system."

<u>Decision</u>

9. Other than the payments made to Mr. Singh, TrasBC does not dispute the findings at paragraphs 25 and 28 of the Commissioner's Decision that company drivers were paid more than 8 days after the pay period during the Audit Period in breach of section 24(1) of the *Regulation.*

10. At paragraphs 20 to 23 and 33 to 34 of the Commissioner Decision, I set out why I did not consider the payments to Mr. Singh involved advances or accept TrasBC's explanation that it modified Mr. Singh's payments because he was "facing an immigration threat." Nothing in TrasBC's more recent submissions has persuaded me differently.

11. I am also not persuaded by TrasBC's argument around section 22 of the *ESA*. Section 22(4) of the *ESA* requires an employer to honor a written assignment of wages to meet a "credit obligation" where there has been an advancement of wages by the employer. However, Mr. Singh was not "advanced" wages from TrasBC and therefore there was no "credit obligation" that would make section 22 of the *ESA* applicable. Rather, Mr. Singh's earned wages were deferred and paid beyond 8 days after the end of the pay period. This is consistent with Mr. Singh's note that asked TrasBC to "bank and add time into my payroll with shortfall" which does not specifically address what should happen if there is not enough banked time to deal with the shortfall. Where the *ESA* allows wages to be placed into a time bank, section 42 limits the use of time banks to overtime wages. TrasBC does not separate out any overtime payments made to Mr. Singh at any time and its insistence that it is allowed to "time bank" any of Mr. Singh's hours conflicts with the plain wording of the *ESA* as well as with section 24(1) of the *Regulation.*

12. I do not agree that I should not give any weight to the previous administrative penalty issued to TrasBC because it did not arise specifically out of issues with "time banks." The penalty in the previous case involved the failure to pay the regulated rates to drivers and that is also what occurred in this case. The reasons drivers were not paid the regulated rates may be different, but the result was the same. I also do not agree with TrasBC's characterization of Industry Advisories in general as intended to clarify "confusion" that may exist in the industry. Industry Advisories also remind licensees what is expected of them and warn that failure to comply may result in penalties. In this case, the Industry Advisory in question was in response to insufficient and inaccurate wage statements and did not include any direction on the proper application of time banks in any event.

13. Finally, I do not find the consideration from the decision involving <u>Supersonic</u> applicable in this case. Here, TrasBC maintains that it has not violated the *Act* or the *Regulation* and has provided no evidence that it has it has taken "any corrective actions may lead to a reduction in an administrative penalty."

Conclusion

14. Having carefully considered TrasBC's submission, and in light of all of the above-mentioned factors and circumstances, I remain convinced that a $3,000 penalty is appropriate in this case.

15. In the result, I order TrasBC to pay an administrative penalty of $3,000. Section 35(2) of the *Act* requires this fine to be paid within 30 days of the issuance of the Decision Notice. Payment should be made by payable to the Minister of Finance and delivered to the Office of the BC Container Trucking Commissioner.

16. TrasBC may request a reconsideration of the Commissioner's Decision by filing a Notice of Reconsideration with the Commissioner not more than 30 days after TrasBC's receipt of this Decision Notice. A Notice of Reconsideration must be:
    a. made in writing,
    b. identify the decision for which a reconsideration is requested,
    c. state why the decision should be changed,
    d. state the outcome requested,
    e. include the name, an address for delivery, and telephone number of the applicant and, if the applicant is represented by counsel, include the full name, address for delivery and telephone number of the applicant's counsel,
    f. signed by the applicant or the applicant's counsel.

17. Despite the filing of a Notice of Reconsideration, and subject to section 39(2) of the *Act*, the above order remains in effect until the reconsideration application is determined.

This decision notice along with the Commissioner's decision will be published on the Commissioner's website (www.obcctc.ca).

Dated at Vancouver, B.C. this 19th day of September 2025.

Glen MacInnes
Commissioner