



August 19, 2025

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

Commissioner's Decision
TrasBC Freight Ltd. (CTC Decision No. 25/2025)

Introduction

1. TrasBC Freight Ltd. ("TrasBC") is a licensee within the meaning of the *Container Trucking Act* (the "Act").
2. Raja Rail Services Ltd. ("Raja Rail") and TransBC Freightways Ltd. ("TransBC") are also licensees within the meaning of the *Act* and are Related Persons of TrasBC.
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 ("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.

4. 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.
5. As part of the random audits initiated by the Commissioner, an auditor was directed to audit TrasBC records to determine if their directly employed operators ("Company Drivers") were being paid the required minimum rates.
6. This is TrasBC's third audit by the Office of the BC Container Trucking Commissioner ("OBCCTC"). In TrasBC Freight Ltd. (CTC Decision No. 09/2017), TrasBC was found to be compliant with the *Act* and *Regulation*. In TransBC Freightways Ltd., Raja Road Rail Services Ltd., TrasBC Freight Ltd. (CTC Decision No. 08/2017), TrasBC and the Related Persons were found in breach of the *Act* and *Regulation* for failing to pay drivers the minimum regulated rates ("MRRs"). An administrative fine of \$1,500 was issued.

Audit Report

7. On August 12, 2024, the OBCCTC sent, and TrasBC complied with, a request for records for June and August 2021, May and June 2022, January and July 2023 and March 2024 (“Audit Period”).
8. The auditor reviewed TrasBC’s payroll records for the Audit Period and determined that they were generally compliant with the *Act* and *Regulation* except for payments made to Mr. S. Singh (“Mr. Singh”) as explained below.
9. The auditor confirmed that four company drivers were hired without any previous container trucking experience. Mr. Singh was not included among those drivers. As set out below, Mr. Singh was entitled to the higher MRR during the period of his employment with TrasBC.
10. The auditor reviewed the June 1-15, 2022 pay period (“Impugned Pay Period”)¹ and noted that Mr. Singh, a company driver, was paid \$3,500.00 when he should have been paid \$3,788.13 at the MRRs based on the number of hours worked (a difference of \$288.13). TrasBC explained that Mr. Singh is an immigrant, and a condition of his status requires that he receives a regular salary. On July 14, 2021, Mr. Singh asked to be paid \$3,500.00 each pay period and “bank and add into my [sic] any payroll with shortfall” to “maintain a steady income pattern to fulfill my financial obligations.” TrasBC explained that they agreed to pay Mr. Singh \$3,500.00 each pay period and reconciled his hours and wages at the end of the year. TrasBC provided the auditor with a payroll report between July 16, 2021 and December 15, 2022 (the entire period of his employment) showing Mr. Singh received \$108,500.00 in wages when he in fact was only required to be paid \$103,630.30 at the applicable MRRs.
11. The auditor confirmed that TrasBC did not pay Mr. Singh more than \$3,500.00 in a pay period even if he earned more than \$3,500.00 in that pay period. According to the spreadsheet attached to the Audit Report, there were 13 pay periods during Mr. Singh’s employment with TrasBC (July 16, 2021 to December 15, 2022) where this occurred.
12. The auditor contacted Mr. Singh who agreed he was paid the full amount for his hours worked and the auditor then determined that Mr. Singh was paid the MRRs for work performed while working at TrasBC but was not paid in accordance with section 24(1) of the *Regulation*.
13. On March 5, 2025, the auditor prepared an audit report (“Audit Report”) which was provided to TrasBC on March 19, 2025 with an invitation to provide a written response no later than April 18, 2025. TrasBC provided its written response on April 18, 2025.

¹ Mr. Singh no longer worked for TrasBC during the subsequent months of the Audit Period.

Licensee Response

14. TrasBC does not dispute the material facts set out in the Audit Report. However, TrasBC argues that it did not breach section 24(1) of the *Regulation* because there is no prohibition against paying a driver by salary or providing an advance in wages in exchange for future work. The licensee explains that Mr. Singh received \$1,423.45 in excess of actual hours worked prior to the June 1-15, 2022 pay period and that this overpayment should be considered an “advance” that more than offsets the \$288.13 underpayment for the Impugned Pay Period. TrasBC further explains that this salary method of payment ensures that drivers will not be underpaid due to accounting or data entry errors. TrasBC states that the Commissioner has previously accepted that licensees can pay drivers a salary, but “that the salary structure must be designed to meet or exceed the minimum regulated rates,” citing to paragraphs 59-85 of Pro West Trucking Ltd. (CTC Decision No. 08/2023) and paragraphs 24-48 of Simard Westlink Inc. (CTC Decision No. 09/2023).
15. In the alternative, TrasBC argues that if it was in breach of section 24(1) of the *Regulation*, it was the result of a request from Mr. Singh who was facing a “real and imminent threat to his status in Canada” and such a mitigating factor should be considered when determining an administrative penalty – if any. TrasBC refers to Tri-R Transport Ltd. (CTC Decision No. 03/2023) where it says the Commissioner considered mitigating factors such as intent and good faith.
16. TrasBC closes by asking the Commissioner to consider whether company pay methods – including paying drivers by a salary – satisfy the requirements to pay the regulated rates. Alternatively, it asks me to consider if regulatory changes regarding salary compensation models are necessary.
17. Finally, TrasBC asks that it be provided an opportunity to submit additional information or documents if more information is required before a decision is made.

Decision

18. Put in the simplest terms, TrasBC agreed to Mr. Singh’s July 14, 2021 request to delay paying a portion of the wages owed to him until well after eight days from the end of the applicable pay period. I find that such an arrangement is prohibited by section 24(1) of the *Regulation*, which expressly states that licensees must pay remuneration owed to company drivers no later than 8 days after the end of the pay period. It is undisputed that TrasBC failed to pay Mr. Singh all the wages he was owed by the regulated deadline when he earned more than \$3,500 in a pay period. The protections created by the *Act* are minimum requirements and cannot be waived or contracted out of. Therefore, I find that TrasBC was in breach of section 23 of the *Act* when it failed to pay Mr. Singh the wages owed in the 13 pay periods.
19. I am not prepared to accept that any overpayments before or after the Impugned Pay Period can be used to offset the wages owed during the Impugned Pay Period or any other pay periods.

Commissioners have generally not permitted licensees to use overpayments to offset underpayments – see Sunlover Holding Co. Ltd (CTC Decision No. 10/2017) para. 23 and Aheer Transportation Ltd. (CTC Decision No. 01/2021) para. 16. Offsetting alleged overpayments against underpayments was rejected in these decisions because this approach conflicts with the requirement in section 23(2) of the *Act* that drivers to be paid *not less than* the rates established pursuant to sections 22 of the *Act*. I agree with the analysis above and find that overpayments cannot be used to justify paying a driver less than the regulated rates in any pay period.

20. Additionally, and in any event, I am not persuaded by TrasBC's attempts to characterize any "overpayments" in the eight pay periods prior to the June 1-15, 2022 pay period as "advances" towards shortfall of the Impugned Pay Period. There is nothing in the wage statement or the supporting documentation in the licensee's response to support its assertion that any previous "overpayment" was an "advance" and intended to cover the "shortfall" during Impugned Pay Period. Mr. Singh's July 14, 2021 request only speaks to withholding the payment of earned wages to be later paid but does not speak to an "advance" of unearned wages. Moreover, TrasBC's submission does not challenge the auditor's reporting of its statement that it intended to reconcile any differences between the salary amount and the actual hours worked at the end of the year and not on a per pay period basis, and I find the two statements inconsistent.
21. I acknowledge Mr. Singh advised the auditor that he did not feel he was owed any additional money, but, based on the discrepancies and the lack of information set out above, I am not clear what his hourly rate was. The driver payroll report for the Impugned Pay Period states that he worked 137 hours and 44 minutes and the hourly rate was \$39.00 for a total of \$5,371.86 and an "allocation" of \$3,612.07. The "allocation" amount is approximately \$26.28 per hour.² I note at the time, company drivers with less than 2,340 hours of container trucking experience earned a minimum of \$26.30 per hour and drivers with more than 2,340 hours earned a minimum of \$27.50 per hour. It was undisputed that Mr. Singh was entitled to at least the higher regulated rate during the Impugned Pay Period.
22. At the time of Mr. Singh's employment with TrasBC, the Rate Order did not include a regulated rate for overtime. Mr. Singh worked 137 hours and 44 minutes during the Impugned Pay Period but his wage statement does not indicate he was paid any overtime rates for hours worked in excess of 9 hours a day or 45 hours in a work week as then required by the *Employment Standards Act* for short haul drivers. I also do not see any statutory holiday pay or vacation pay on the wage statements as required by the *Employment Standards Act*. The absence of these rates on his wage statement also makes it difficult to determine what his true hourly rate was or what the \$3,500.00 was intended to cover.

² The hourly calculation for the "allocation" amount was not listed on the payroll report and its not clear if the \$3,612.07 represents Mr. Singh's earnings. It appears TransBC incorrectly converted Mr. Singh's 137 hours and 44 minutes into decimals as 137.44 instead of 137.75 which would make the rate \$26.22 per hour.

23. TrasBC simply asserts that Mr. Singh was “overpaid” through its “advance payments” in previous pay periods but neither the wage statements nor the payroll documents confirm that he actually was “overpaid” in previous pay periods. Even if offsets were permitted under the *Act* – which they are not -- the lack of information, along with the missing or conflicting information about the hourly rate, overtime rate, and hours worked, make it impossible to conclude Mr. Singh was in fact “overpaid” or was paid an “advance” in previous pay periods. Based on the above, I am not persuaded to deviate from the normal course of ordering a licensee to pay the MMRs in those pay periods where the licensee was not compliant with section 24(1) of the *Regulation*.
24. I have reviewed the other pay periods in the working papers attached to the Audit Report and confirm that Mr. Singh was at least paid in accordance with the rate for drivers who had worked 2,340 hours or more. The fact that the “allocation” amount is close to the lower MMR for hourly drivers at the time suggests to me that hourly rate of \$39.00 was recorded for some other purpose and the “allocation” rate was intended to reflect the wages owed to Mr. Singh. However, Mr. Singh was entitled to the higher MMR hourly rate, which was also the rate used in the auditor’s calculations. I will address a separate matter of how TrasBC calculated the wages owed to Mr. Singh below. Based on the evidence before me, I am satisfied that Mr. Singh was paid in accordance with section 23 of the *Act* based on the higher rate in other months of the Audit Period but is owed at total of \$5,659.12 for the 13 pay periods he was not paid the regulated rate by the deadline.
25. Additionally, the auditor did not note it in her Audit Report, but as noted in paragraph 11, the wage statement for Mr. Singh indicates that the cheque in the amount of \$3,500.00 was issued on July 2, 2022 – more than 8 days following the Impugned Payroll Period and therefore in also a breach of section 24(1) of the *Regulation*. My review of the other pay periods during the Audit Period also indicates that other company drivers were consistently paid more than 8 days after the pay period and therefore also in breach of section 24(1) of the *Regulation*.
26. Lastly, in reviewing the worksheets attached to the Audit Report, I see that the auditor recalculated Mr. Singh’s wages because TrasBC failed to properly convert the hours he worked into decimals. For example, on the pay period of June 1-15, 2022, Mr. Singh worked a total of 137 hours and 44 minutes and the licensee incorrectly calculated his wages based on 137.44 hours instead of 137.73 hours.³ I note that the wage statements for the other drivers appear to correctly calculate the hours.
27. TrasBC invites me to request additional information or documentation based on its submission prior to making a decision but TrasBC ought to have already provided the information it believes is relevant. TrasBC will have another opportunity to provide additional information and submissions

³ I note that the auditor rounded up to the nearest quarter hour in the Audit Report. Since TrasBC calculated based on the minute, I did not round up to the nearest quarter hour.

before any proposed administrative penalty is imposed in any event.

28. Based on the evidence before me and for the reasons set out above, I find that TrasBC was in violation of section 23 of the *Act* when it paid Mr. Singh less than the regulated rate (\$5,659.12) over 13 pay periods between July 16, 2021 and October 30, 2022 and I find that 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 that pay period.
29. 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.
30. 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.
31. 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 in the amount of \$20,000.00 for (among other things) 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.
32. In West Coast Freight Ltd. (CTC Decision No. 06/2025) I discussed the seriousness of underpayments and delayed payments at paragraph 34 and I issued the licensee a \$6,000.00 fine for failing to paying the MRRs and failing to pay the MRRs by the prescribed deadline.

33. I am not persuaded that TrasBC engaged in a “salary” system of “additional payments” to protect against shortfalls in subsequent pay periods. First, overpaying employees to compensate for a licensee’s failure to have proper payroll practices seems illogical and improbable. Second, no other driver appears to have been paid on this “salary” system. Third, its submissions around its “salary” system are inconsistent with TrasBC’s evidence that it engaged in the “additional payments” for Mr. Singh in response to his July 16, 2021 request and the “immigration threat.”
34. I am also not convinced by TrasBC’s explanation that it modified the payment of Mr. Singh’s wages in the manner it did because he was facing an “immigration threat,” largely because I do not believe there would be any threat to Mr. Singh if he was able to demonstrate to an immigration official that he earned \$103,630.30 over the 17 months he was employed. I also note that Mr. Singh’s written request on July 14, 2021 makes no mention of an “immigration threat.” Even if this were the reason for the modification, TrasBC knew its obligations under the CTS license but chose to accommodate Mr. Singh’s request to make it appear that he had a steady \$3,500.00 bi-monthly income when he did not. Based on the above, I am not prepared to accept TrasBC’s motivation as a mitigating factor.
35. Here, I have decided that an administrative penalty of \$3,000.00 is appropriate. In assessing an appropriate penalty, I acknowledge the seriousness of not paying a driver within the prescribed timeline and the number of drivers affected by this breach, but I am also mindful that the amount owed to Mr. Singh for the Impugned Pay Period was relatively a small amount owing to one driver during the period of his employment.
36. TrasBC has previously been found in breach of the *Act* for failing to pay the regulated rates. This proposed fine should demonstrate to TrasBC that it pay its drivers the regulated rates. It is consistent with other administrative penalties issued for failing to pay the MMRs and for failing to pay a driver within the prescribed period.
37. The outstanding matter remains the amount found owing to Mr. Singh for the duration of his employment. I have calculated that Mr. Singh was required to be paid \$5,659.12 as follows:

Pay Period		Hours:Min	Hours	Rate	Actual Gross Earned	Wages Paid	Difference
16-Jul-21	31-Jul-21	160:30	160.50	\$ 27.50	\$ 4,413.75	\$ 3,500.00	\$ 913.75
01-Aug-21	15-Aug-21	129:00	129.00	\$ 27.50	\$ 3,547.50	\$ 3,500.00	\$ 47.50
01-Sep-21	15-Sep-21	156:19	156.32	\$ 27.50	\$ 4,298.80	\$ 3,500.00	\$ 798.80
15-Sep-21	30-Sep-21	133:49	133.82	\$ 27.50	\$ 3,680.05	\$ 3,500.00	\$ 180.05
01-Oct-21	15-Oct-21	132:32	132.53	\$ 27.50	\$ 3,644.58	\$ 3,500.00	\$ 144.58
16-Oct-21	31-Oct-21	152:39	152.39	\$ 27.50	\$ 4,190.73	\$ 3,500.00	\$ 690.72
01-Nov-21	15-Nov-21	139:59	139.98	\$ 27.50	\$ 3,849.45	\$ 3,500.00	\$ 349.45
01-Dec-21	15-Dec-21	131:30	131.50	\$ 27.50	\$ 3,616.25	\$ 3,500.00	\$ 116.25

01-Feb-22	15-Feb-22	147:16	147.27	\$ 27.50	\$ 4,049.93	\$ 3,500.00	\$ 549.93
01-Apr-22	15-Apr-22	127:39	127.65	\$ 27.50	\$ 3,510.38	\$ 3,500.00	\$ 10.38
01-Jun-22	15-Jun-22	137:44	137.73	\$ 27.50	\$ 3,787.58	\$ 3,500.00	\$ 287.58
16-Jul-22	31-Jul-22	160:30	160.50	\$ 28.88	\$ 4,635.24	\$ 3,500.00	\$ 1,135.24
16-Oct-22	30-Oct-22	136:15	136.25	\$ 28.88	\$ 3,934.90	\$ 3,500.00	\$ 434.90
Total Owing							\$ 5,659.12

38. Finally, the Rate Order sets out the MRRs. Licensees are free to pay more than the MRRs and are free to use different compensation methods so long as they are documented in accordance with Appendix D and so long as drivers are paid at least the MRRs for each hour worked or trip performed within the timelines set out in the *Regulation*. If TrasBC is not satisfied that the current regulatory scheme allows it to meet its objectives and remain compliant with the *Act* and *Regulation*, it would need lobby for legislative change or provide a submission to the Commissioner during a rate review process.
39. In the result and in accordance with section 9 and 34(2) of the *Act*, I hereby order and give notice as follows:
- I order 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 date of this decision.
 - I order TrasBC to pay its company drivers in accordance with section 24(1) of the *Regulation*.
 - I propose to impose an administrative fine against TrasBC in the amount of \$3,000.00.
40. Should it wish to do so, TrasBC 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.
41. If TrasBC provides a written response in accordance with the above, I will consider its response and I will provide notice to TrasBC of my decision to either:
- Refrain from imposing any or all of the penalty; or
 - Impose any or all of the proposed penalty.

This decision will be delivered to TrasBC and will be published on the OBCCTC's website (www.obcctc.ca) after TrasBC's response period has ended.

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



Glen MacInnes
Commissioner