



August 5, 2025

Canada Drayage Inc.
1375 Kingsway Ave
Port Coquitlam, BC V3C 1S2

Commissioner's Decision
Canada Drayage Inc. (CTC Decision No 26/2025)

Introduction

1. Canada Drayage Inc. ("CDI") is a company performing prescribed container trucking services within the meaning of section 16 of the *Container Trucking Act* (the "Act") and is a licensee.
2. Under sections 22 and 23 of the Act, minimum rates that licensees must pay to truckers who provide specified container trucking services are established by the Commissioner via the Rate Order and licensees must comply with those statutorily established 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. CDI currently operates under a container trucking services ("CTS") licence that came into force on December 1, 2024 ("2024 CTS licence"). Section 6.16 of the CTS licence states: "The Licensee must carry out Container Trucking Services for On Dock Trips and Off Dock Trips using only Truck Tags allocated by the Commissioner on the conditions imposed by the Commissioner." Section 6.17 requires licensees to assign a truck tag to each truck performing on-dock and off-dock container trucking services in the Lower Mainland.
4. Appendix D section B(1)(f) and (h) of the 2024 CTS licence ("Appendix D") requires a licensee to provide to the OBCCTC, upon request, payroll and remuneration records for each trucker performing container trucking services and/or working in the container trucking industry.
5. Under section 31 of the Act, the Commissioner may conduct an audit or investigation to ensure compliance with the Act, the *Container Trucking Regulation* (the "Regulation") or a licence.
6. Section 34 of the Act provides that, if the Commissioner is satisfied that a licensee has failed to comply with the Act or terms and conditions of the licensee's 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 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 may not exceed \$10,000.

7. CDI has been the subject of two other Commissioner's decisions. In 2020, the Commissioner found that CDI had failed to ensure Indirectly Employed Operators were paid the minimum regulated rate. CDI then compensated the drivers as required, and the Commissioner exercised his discretion not to issue a penalty: Canada Drayage Inc. (CTC Decision No. 02/2020).
8. In 2025, CDI was found in breach of Appendix E of the CTS licence and section 24 of the *Act* when it improperly deducted a business cost from a driver's wages in January 2022, and in breach of section 23 of the *Act* when its drivers were paid less than the minimum regulated rate when moving containers for its Fastrate division in January 2020. I set out my reasons for not issuing a penalty for those two breaches at paragraph 25 of Canada Drayage Inc. (CTC Decision No. 08/2025) – Commissioner Decision. I subsequently found, in Canada Drayage Inc. (CTC Decision No. 08/2025) – Decision Notice, that CDI was in breach of section 40 of the *Act* when it failed to comply with an order to provide payroll records for its "railway division" and I issued an administrative penalty of \$10,000 and a suspension of its CTS license for six months or until it complied with the order to produce the records – whichever was sooner. CDI's suspension was in effect between 12:01am and approximately 12:30pm on July 31, 2025, until the BC Supreme Court stayed the penalty until seven days after a decision is issued on a reconsideration application to be submitted no later than August 7, 2025.
9. On or around January 8, 2025, three trucks allegedly operated by CDI were observed performing what appeared to be untagged container trucking services in the Lower Mainland. Each of the following trucks was observed moving a container from the CP Rail intermodal yard in Port Coquitlam to the Simard transload facility in Richmond, BC and returned the same container to the CP Rail facility in Port Coquitlam:
 - Untagged Unit 176 with licence plate VG2128 transporting container EITU1855299 ("Impugned Container #1);
 - Untagged Unit 339 with licence plate WG5254 transporting container EMCU8412486 ("Impugned Container #2"); and
 - Untagged Unit 155 with licence plate RS3489 transporting container CAAU6008055 ("Impugned Container #3).

(collectively the "Impugned Containers")
10. The Impugned Containers then appeared to transit from the CP Rail intermodal yard to Delta port marine terminal via train between January 8 and January 14, 2025, ready to be loaded onto an

ocean carrier.

11. The trucks did not display a truck tag as required by the CTS licence when CDI is performing on-dock and off-dock container trucking services.

Investigation Report

12. On January 23, 2025, the Office of the BC Container Trucking Commissioner (“OBCCTC”) advised CDI that it had begun an investigation into whether the container movements observed on January 8, 2025 were in breach of the requirement that licensees carry out container trucking services within the Lower Mainland using tagged trucks (“Investigation Report”).
13. The Investigation Report sets out the regulatory definition of “container trucking services,” “container,” “facility,” and “off-dock trip” and includes photographs of the Impugned Containers taken on January 8, 2025 and data gathered from a container tracking websites¹ showing the ownership and the journey of each Impugned Container on or around January 8, 2025. It advises that the Impugned Containers appear to be “containers” that were moved between two “facilities” as “off-dock trips” by untagged trucks operated by CDI.
14. In addition to the Investigation Report, CDI was provided with a copy of correspondence dated April 20, 2020 addressed to CDI from former Commissioner Michael Crawford advising that CDI must pay the regulated rates when moving containers to and from CN and CP intermodal rail yards and that he had instructed OBCCTC auditors to conduct audits going forward based on a bulletin to the same effect issued on April 17, 2020.
15. The Investigation Report provided CDI with an opportunity to provide a submission on whether the Impugned Containers were covered by the *Act, Regulation* of CTS licence and also requested payroll records and trip sheets for the drivers moving the Impugned Containers on January 8, 2025 (“Requested Records”). The deadline to provide a submission and the Requested Records was February 5, 2025.
16. CDI did not respond by the deadline.
17. On or around March 1, 2025, the OBCCTC investigator confirmed with CDI by phone that they had received the correspondence and CDI advised that their legal counsel would respond. On March 7, 2025, legal counsel for CDI contacted me to ascertain the purpose of the investigator’s phone call as counsel was concerned the investigator was discussing another matter that before the Commissioner with his client. On March 12, 2025, I advised counsel that the investigation was separate from other matters and provided him with a copy of the January 23, 2025 Investigation

¹ Shipmentlink.com and www.bic-code.org

Report and extended the deadline to respond to March 19, 2025. On March 18, 25 and 28, 2025 counsel requested and was granted additional extensions to respond on behalf of CDI, with the last deadline being March 31, 2025.

18. Counsel for CDI provided a response to the Investigation Report on March 31, 2025.

Licensee Response

19. CDI disputes that the Impugned Containers are regulated by the *Act* because they “did not require, let alone involve access to a marine terminal” and asserts that the Commissioner is without jurisdiction to demand the Requested Records.
20. CDI acknowledges that the Impugned Containers arrived at a marine terminal on January 14, 2025, several days after they were observed on January 8, 2025 but states that “the fact that a container may end up at a marine terminal at some later date does not, *per se*, retroactively make all prior movements of such containers ‘container trucking services.’” The application of the *Act* to the Impugned Containers, CDI argues, would be inconsistent with its reading of the *Act* and the purpose of the legislation in addressing repeated work stoppages at ocean ports.
21. CDI states there is no rational interpretation of the *Act* or its purpose that supports the premise that a container “trucked within the Lower Mainland between facilities” is required to have a tagged truck “even if no marine terminal is involved in the trucking services.” CDI argues such an interpretation is inconsistent with a harmonious reading of section 16(1) of the *Act* and section 2 of the *Regulation* because it ignores that “prescribed” container trucking services are limited to the transportation of containers to and from a marine terminal. CDI also argues that such an interpretation is inconsistent with Part 3 of the *Act* which establishes “minimum rates that licensees must pay to truckers who provide the prescribed container trucking services.”
22. Counsel further argues that requiring CDI to move the Impugned Containers with tagged trucks is inconsistent with the OBCCTC’s position that unlicensed companies can move the same containers without tags and without paying the regulated rate and that together these two interpretations would treat licensed and unlicensed companies performing the same type of work differently, and that this would be unfair.

Decision

23. While CDI challenges the application of the *Act*, *Regulation*, and CTS license to the Impugned Containers, it does not dispute the material facts set out in the Investigation Report regarding the movement of the Impugned Containers on January 8, 2025. Nor has CDI provided the Requested Records.

24. For the reasons that follow, I find that CDI moved the Impugned Containers in breach of sections 6.16 and 6.17 of its CTS licence. I also find that CDI is in breach of Appendix D of the 2024 CTS licence for failing to provide the Requested Records by the deadline (March 31, 2025).

Application of legislative scheme to Impugned Containers

25. I am not persuaded by CDI's argument that section 2 of the *Regulation* limits the application of the *Act* and the CTS licence to container trucking services that immediately transit through a marine terminal.
26. Commissioner Crawford dismissed a similar argument in Can. American Enterprises Ltd. (CTC Decision No. 12/2000) – Decision Notice at paragraph 11:

Section 2 of the *Regulation* does not prescribe which container trucking series attract a rate and which do not. Rather, the section establishes that the only type of container trucking services requiring a **licence** (emphasis added) are “container trucking services that require access to a marine terminal.” Therefore, any person (trucking company) engaged in on-dock trucking requires a **licence** (emphasis added) and licenced companies are required to pay regulated rates for defined on and off-dock trips. Section 2(1)(a) of the *Regulation* only means that drivers performing container trucking services on behalf of a licensee do not themselves need to be licenced. Since the trips in question are container trucking services defined as off-dock moves under the *Act*, Can American is non-compliant when it does not pay an off-dock trip rate to a driver (including an I/O) for the move.

27. In Simard Westlink Inc. (CTC Decision No. 4/2024) (Reconsideration), I rejected a similar case-by-case approach to determining when a container is a “container” for the reasons set out in the Reconsideration and summarized at paragraph 77 as follows:

In my opinion, the *Act* requires licensees to pay regulated rates for movements of containers that can and/or do travel through a marine terminal, containers that are “furnished or approved by an ocean carrier for the marine transportation of goods.” I do not believe that the purpose of the *Act* (ensuring stability in the Lower Mainland drayage industry as a whole) would be served by an interpretation that requires determining whether a container move is directly, indirectly or wholly unrelated to a marine terminal on a case-by-case basis. Rather, such reading would compromise the ability of the OBCCTC to effectively audit and enforce rates. It would also be inconsistent with my interpretations of “container,” “facility,” and “prescribed” as compared to “specified” container trucking services, set out above.

28. In KD Truckline Ltd. (CTC Decision No. 11/2024) – Commissioner's Decision (paragraph 63), I also rejected the expansion of the restrictions set out in section 2 of the *Regulation* to other sections of

the Act:

Section 2 of the *Regulation* only means that a person who performs “container trucking services that require access to a marine terminal” (“on-dock”) are required to have a licence. A person who performs “on-dock” container trucking services is required to pay the regulated rate for “one or more container trucking services” (including “off-dock”) in accordance with section 22 of the *Act*. What KD is arguing is that section 2 of the *Regulation*, which is explicitly for the purposes of section 16(1), also applies to “one of more container trucking services” contemplated in section 22 of the *Act*. I disagree. Section 2 of the *Regulation* only establishes the type of container trucking services that require a licence, it does not prescribe which container trucking services require licensees to pay a regulated rate. Section 22 of the *Act* requires licensees (those who perform on-dock work) to pay a regulated rate when they move a container between facilities in the Lower Mainland (“off-dock trip”) as well as when they perform an “on-dock” move. If a company requires access to a marine terminal to move a container, they need a licence. The *Act* and *Regulation* and CTS licence require that anytime a licensee moves a container between facilities in the Lower Mainland, they must pay the regulated rate.

29. I agree with the analysis set out in the decisions referenced above and find CDI’s similar attempt to expand the language of section 2 to other sections of the *Act* to be equally incorrect. The Lieutenant Governor in Council (“LGIC”) could easily have ensured that the prescribed container trucking services in section 2 applied to section 22 of the *Act* by replacing “specified” in section 22 with “prescribed” if the LGIC had meant that the “specified” rates set out in section 22 of the *Act* only applied to the “prescribed” container trucking services in section 2 of the *Regulation*.
30. Simply put, companies that perform prescribed container trucking services (services that require access to a marine terminal, e.g. “on-dock”) are required to have a license. Licensees who perform specified container trucking services (e.g. “on-dock trips” and “off-dock trips”) are required to pay the rates set out in the Rate Order.
31. I disagree that such an interpretation expands the application of the *Act* beyond its original intent to prevent work stoppages at marine terminals. The 2014 labour dispute that led to the inclusion of the off-dock rates arose in part because drivers were not paid a regulated rate for “off-dock” work which in turn led to disruption at the port. Ensuring truckers who move containers to and from marine terminals are also paid a minimum regulated rate when they perform container trucking services elsewhere in the Lower Mainland was a key recommendation in the Ready/Bell Recommendation Report that shaped the *Act*:

Currently, off-dock trips are not regulated. The issues arising from off-dock terminal operations, such as appropriate rate of pay for off-dock moves, communication barriers, dry runs, and increased costs, raise the further question of whether it is appropriate to

bring off-dock trips into full alignment with the rate regulations and the TLS.

It is apparent from conversations with stakeholders that several container movements take place outside the ports. There is considerable variation in these off-dock trip rates, and it appears that off-dock rates are much lower than the MOA rates. It was reported to us countless times in the course of our discussions with drivers and the union representatives that off-dock trip rates may be at least 50% lower than average trip rates, with some rates as low as \$50.00 per container, and even as low as \$15.00-\$20.00 per container. It is also reported that rampant undercutting of rates occurs for off-dock container movements.

Simply put, the current off-dock rates do not have any industry benchmarks. These off-dock rates are not economical and are often below cost. Without adequate compensation this is a significant concern as it directly impacts independent owner-operators, especially those who spend considerable time moving containers at off dock facilities.²

32. CDI suggests it would be absurd for non-licensees performing the exact same container moves as licensees not to be subject to the same regulated rates. At paragraph 35 of Forfar Enterprises Ltd. (CTC Decision No. 20/2016) Commissioner MacPhail dismissed a similar argument and provided his rationale for why licensees are required to pay the regulated rates for off-dock trips when non-licensees are not. I made a similar point in the Simard Westlink Inc. (CTC Decision No. 09/2023) -- Commissioner Decision at paragraph 40 and in KD Truckline Ltd. (CTC Decision No. 16/2025) – Reconsideration at paragraph 67. Only licensees can move containers directly from their customer’s Lower Mainland facility to a marine terminal – this is arguably unfair to non-licensees who cannot offer that service. Only non-licensees can pay less than the regulated rate to move a container between two facilities in the Lower Mainland – this is arguably unfair to the licensee who cannot compete on price. Licensees have some business advantages that are not afforded to non-licensees through their exclusive access to marine terminals and the cost of that benefit is paying a regulated rate when moving “containers” both on-dock and off-dock in the Lower Mainland.
33. In Forfar Enterprises Ltd. (CTC Decision No. 20/2016) the then-Commissioner stated that “containers which are identified by a 4 letter identification codes consistent with containers, ‘furnished or approved by an ocean carrier for the marine transportation of goods’ are to be presumed to be ‘containers’ as defined in the *Regulation*.” He went on to say that “where containers are so identified, the onus lies with the licensee to rebut this presumption.” In Simard Westlink Inc. (CTC Decision No. 04/2024) – Reconsideration, I adopted that analysis and I adopt it concerning the containers moved by CDI on or around January 8, 2025 as well.
34. The Impugned Containers have four letter identification prefixes that evidence ownership by certain ocean carriers engaged in the marine transportation of goods. The photographs attached to the Investigation Report show metal boxes consistent with those “furnished or approved by an

² Vince Ready and Corrine Bell, Recommendation Report, September 25, 2014, (c) Rate of Pay (ii) off dock.

ocean carrier for the marine transportation of goods.” The arrival of the Impugned Containers at Deltaport on January 14, 2025 suggests they are “furnished or approved by an ocean carrier for the marine transportation of goods.” These indices give rise to the presumption that the Impugned Containers are “containers” and, since CDI has failed to rebut the presumption, I find that the Impugned Containers are “containers” as defined in the *Regulation*.

35. The definition of “facility” includes transload facilities and rail yards like the origin and destination of the Impugned Containers indicated in the Investigation Report and any such “off-dock trip” performed by a licensee must be performed by a tagged truck.
36. As the Impugned Containers meet the definition of “container” in the *Regulation*, and as the locations between which CDI was moving those containers are “facilities” in the Lower Mainland, I find CDI was performing container trucking services on January 8, 2025. CDI does not dispute that the CDI trucks did not have truck tags or that they retained the independent operators as drivers.
37. Section 18 of the Act permits the Commissioner to impose any conditions on the CTS license the Commissioner considers necessary and the Commissioner has included sections 6.16 and 6.17 in the licence in part in order to match the number of trucks to the available work – and thus prevent the rate undercutting resulting from too many trucks chasing too few containers that contributed to previous labour disputes. The requirement to display a truck tag on each approved vehicle ensures that only approved vehicles are performing regulated container trucking services and allows the Commissioner to keep track of the number of vehicles doing so. In essence, CDI had three extra trucks performing container trucking services on the date in question which upsets the Commissioner’s ability to balance the available work and the number of trucks. If CDI also underpaid the drivers of the Impugned Containers, which is still unclear, there may be a more serious contravention.

Failure to provide Requested Records

38. It is not open to CDI to interpret the Act in a manner favourable to them and refuse to provide the Requested Records as a result. This was extensively canvassed in Canada Drayage Inc. (CTC Decision No. 18/2025).
39. In any event, Appendix D of the 2024 CTS license is very broadly worded and applicable to all the work a trucker performs on behalf of a licensee, not just regulated container trucking services work. Specifically, Appendix D section B(1)(f) and (h) to Schedule 1 of the 2024 CTS licence require a licensee to provide to the OBCCTC upon request payroll and remuneration records for each trucker performing container trucking services or working in the container trucking industry for the licensee, Related Person, affiliate or successor company. In this case, it is not disputed that the drivers of the Impugned Containers drove vehicles moving containers on behalf of CDI and meet

the definition of “trucker.” CDI is required to provide this information pursuant to the terms of its CTS licence.

40. While an order to comply would normally follow a licensee’s failure to produce records upon request, in this case CDI has made it very clear in its submission that it does not intend to produce the required records. CDI has recently taken a similar position in response to an audit: Canada Drayage Inc. (CTC Decision No.18/2025) – Decision Notice. A separate order in the circumstances would likely result in further delays.

41. In this case I find that CDI is in breach of Appendix D of its CTS licence.

Proposed Penalty

42. The seriousness of the available penalties indicates the gravity of non-compliance with the *Act*, *Regulation* and CTS license. The *Act* is beneficial legislation intended to ensure that licensees pay their employees and independent operators in compliance with the established rates. Licensees must comply with the legislation, as well as the terms and conditions of their license, and the Commissioner is tasked under the *Act* with investigating and enforcing compliance.

43. 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.

44. In Tri-R Transport Ltd. (CTC Decision No. 03/2023), Goodrich Transport Ltd. (CTC Decision No. 06/2023), Ferndale Transport Ltd. (CTC Decision No. 07/2023) and West Coast Freight (CTC Decision No. 15/2023), I outlined the historical reasons for and the practical importance of each licensed truck performing container trucking services having a truck tag. Truck tags are important for enforcement and performance-tracking purposes and licensees who use untagged trucks hinder

the OBCCTC's mandate to ensure stability in the industry.

45. CDI used untagged trucks to perform regulated container trucking services in breach of its licence. The result was that the OBCCTC was unaware of certain container movements, which hinders enforcement for the reasons outlined above and in the decisions referenced above. I find that this calls for an administrative penalty.
46. Additionally, I am unable to determine if CDI has paid the regulated rates to the drivers because CDI has failed to comply with the OBCCTC's records request. Therefore, I am unable to ascertain the extent to which CDI was enriched or the seriousness of the offence as it relates to remuneration. I find that CDI's failure to provide the Requested Records is serious misconduct and hinders the ability of the OBCCTC to carry out its mandate to ensure drivers are paid the minimum regulated rate when performing container trucking services. Furthermore, absent evidence to the contrary from CDI, I infer that CDI has failed to provide the Requested Records because they are adverse to CDI. Any attempts to avoid paying drivers the regulated rate – including refusal to provide payroll records -- must be deterred and any penalty must be sufficient to ensure that licensees do not merely conduct a cost-benefit analysis when weighing whether or not to respond to a request.
47. 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.
48. In previous decisions where licensees have used untagged trucks to perform container trucking services, administrative fines have ranged from \$1,000 to \$8,000 largely based on whether the driver of the untagged truck was paid the regulated rate as determined by the payroll information provided by the licensee.
49. Where licensees have failed to comply with an order, suspensions have been proposed until such time as the licensee complies: Sunlover Holding Co. Ltd. (CTC Decision no 22/2017); Can American Enterprises Ltd. (CTC Decision No. 12/2020); Pro West Trucking Ltd. (CTC Decision No. 13/2023).
50. Additionally, simply imposing a monetary penalty in these circumstances would invite other licensees to weigh the impacts of an administrative penalty against the costs associated with paying the regulated rates – especially when the maximum administrative fine here is \$10,000.

51. As set out above, CDI was recently found to have breached an order to produce documents and an administrative fine of \$10,000 and a suspension of its CTS license for six months or until it complied with the order was imposed. Here, again, CDI's failure to provide the Requested Records has severely hampered the ability of the Commissioner to ensure drivers are paid the regulated rates. I find CDI's intransigence requires a comparably strong response to induce compliance.
52. Based on CDI's failure to provide the Requested Records, I propose an administrative penalty of \$10,000 and that CDI's license be suspended until such time as it provides the OBCCTC the Requested Records, or for six months, whichever is sooner. As set out above, in Canada Drayage Inc. (CTC Decision No. 18/2025) – Decision Notice I imposed a suspension until CDI produced the materials in question or for six months, whichever was sooner. The suspension proposed here is similar. The penalty should prevent other licensees from engaging in the cost-benefit analysis that appears to have occurred in this case.
- 53.
54. Considering all the factors present in this case, I conclude that this is an appropriate case to issue a penalty. Therefore, in accordance with section 34(2) of the *Act*, I hereby give notice as follows:
- a. I propose to impose an administrative fine against CDI in the amount of \$10,000.00; and
 - b. I propose CDI's license be suspended until such time as it provides the OBCCTC the Requested Records, or for six months, whichever is sooner.
55. Should it wish to do so, CDI 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.
56. If CDI provides a written response in accordance with the above I will consider its response, and I will provide notice to CDI of my decision to either:
- a. Refrain from imposing any or all of the penalty; or
 - b. Impose any or all of the proposed penalty.

Conclusion

57. In summary, CDI has been found to have violated its license by performing container trucking services in the Lower Mainland with untagged trucks and by failing to provide the Requested Records. I have determined that it is appropriate to propose the imposition of a \$10,000 fine and that CDI's license be suspended until such time as it provides the OBCCTC the Requested Records, or for six months, whichever is sooner.

58. This decision and will be delivered to the licensee and published on the Commissioner's website (www.obcctc.ca)

Dated at Vancouver, B.C. this the 5th day of August, 2025

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

Glen MacInnes
Commissioner