



September 29, 2025

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

Canada Drayage Inc. (CTC Decision No. 26/2025) – Decision Notice

Introduction

1. In Canada Drayage Inc. (CTC Decision No. 26/2025) (“Decision”), I found that on or around January 8, 2025, Canada Drayage Inc. (“CDI”) moved three containers (“Impugned Containers”) between facilities in the Lower Mainland in breach of sections 6.16 and 6.17 of its 2024 CTS licence and failed to provide the OBCCTC with payroll records (“Required Records”) in accordance with Appendix D of the 2024 CTS licence by the deadline (March 31, 2025). I proposed an administrative penalty of \$10,000 and a licence suspension of six months, or until such time as CDI provided the Required Records.
2. Consistent with s. 34(2) of the *Act*, CDI was given seven (7) days to provide written response setting out why the proposed penalties should not be imposed.
3. On August 13, 2025, counsel for CDI provided a response.
4. In its August 13, 2025 response CDI relies on submissions made in response to an Audit Report dated January 30, 2023, including submissions dated April 29, 2022, March 8, 2023, February 13, 2025, February 27, 2025, July 15, 2025 and August 7, 2025 considered in Canada Drayage Inc. (CTC Decision No. 18/2025) -- Commissioner’s Decision and/or Decision Notice (“CDI #1 Submissions”). CDI also relies on its March 31, 2025 response to the Investigation Report dated January 23, 2025 that was considered in the Decision (CDI #2 Submission) (all submissions collectively “the Submissions”).
5. While some of the CDI #1 Submissions are relevant to the case at hand, some are not. CDI’s August 7, 2025 submission is an application for reconsideration of Canada Drayage Inc. (CTC Decision No. 18/2025), which is still before me. CDI did not specify which parts of the CDI #1 Submissions it would like me to consider here so I can only consider what I see as relevant to this case.
6. I have considered CDI’s response to the Decision and provide the following Decision Notice.

CDI's Response

7. CDI asks that the proposed administrative penalties not be imposed.
8. I have attempted to summarize the arguments in the CDI #1 Submissions as they relate to the Impugned Containers using the headings in CDI's August 13, 2025 response in this matter.

Interpretation of the Act and lack of jurisdiction

9. CDI argues in its August 13, 2025 response that "to the extent that the Decision is predicated on the CTC's flawed interpretation of the *Act* . . . the CTC lacks jurisdiction" to issue the Decision, to require CDI to produce the Required Information and display truck tags on the Impugned Containers, and to penalize CDI for failure to do so.
10. CDI argues that the Commissioner's application of the regulatory regime to licensees that move containers within the Lower Mainland "even if no marine terminal is involved in the trucking services" is an "error in logic" as it disregards the "marine terminal access requirement under the *Regulation*" and the purpose of the *Act*, which is "to deal with economically disruptive work stoppages affecting trucking companies transporting containerized cargo to and from ocean ports." Furthermore, the Commissioner "erroneously interprets the *Act* in a manner that treats licensed and unlicensed companies differently in respect of the exact same type of work."¹
11. According to CDI, the regulatory regime only applies when a licensee is carrying out "prescribed container trucking services" in the "prescribed area" contemplated in s. 16 of the *Act* and defined in section 2(1) of the *Regulation*. CDI argues that a harmonized reading of the *Act* and the *Regulation* and the purpose of the legislation mean that the regulatory scheme applies only to container moves that "access to a marine terminal, subject to certain exceptions."² CDI argues this is supported by the regulatory definitions of "on-dock trip" and "off-dock trip" and "container" and "container trucking services" which indicate that "there must be a marine component to the move." CDI maintains that the *Regulation* distinguishes between two types of container movements: those that require access to a marine terminal ("on-dock trip") and those that transit between facilities in the Lower Mainland but not through a marine terminal ("off-dock trip") and that "section 16 of the *Act* only requires a licensee to comply with the *Act*, *Regulations*, and License to the extent that they are performing prescribed container trucking services" and such prescribed services "can only include on-dock trips and *expressly exclude off-dock trips* (my emphasis)."³
12. CDI argues that since the regulatory regime applies only to "prescribed" container trucking services, then Appendix D of the CTS licence does not require CDI to produce records concerning the movement

¹ March 31, 2025 submission page 4

² August 7, 2025 submission, page 5

³ August 7, 2024 submission page 5

of the Impugned Containers as those containers did not transit through a marine terminal. CDI argues the concept of “wait time remuneration” is consistent with its interpretation that licensees are only required to maintain records related to prescribed container trucking services.⁴

Outside mandatory time limit

13. CDI’s August 13, 2025 response also argues that the proposed administrative penalties ought to be “cancelled” because they have been issued outside of the time limit under s. 34(1) of the *Act*, which states that the Commissioner must impose a penalty within six months of becoming aware of the licensee’s failure to comply. CDI cites *Aheer Transportation Ltd. v. The British Columbia Container Trucking Commissioner* 2022 BCSC 1779 (“*Aheer Transportation*”) in support of its position that the six months “runs from the date the CTC makes an actual finding of non-compliance under the *Act*.”⁵
14. CDI argues that the six months began to run on January 8, 2025 – the date CDI moved the Impugned Containers -- because the Commissioner “acknowledges” in the Decision “that, as of January 8, 2025 it had made a finding that CDI appeared to be moving the Impugned Containers without displaying ‘a truck tag as required by the CTS licence when CDI is performing on-dock and off-dock container trucking services.’ ”
15. In the alternative, CDI says that the six months began to run on January 23, 2025 – the date “the CTC found that ‘the Impugned Containers appear to be both furnished and approved by an ocean carrier for the marine transportation of goods.’” CDI quotes the Investigation Report statements that “it appears CDI has moved the Impugned Containers between facilities in the Lower Mainland as an off-dock trip with untagged trucks” and “the movement of the Impugned Containers by truck appear to fit the definition of container trucking services.”
16. CDI, in summary, says that the Commissioner “had made a finding that of what it determined was non-compliance with the *Act*, *Regulation* and Licence on the part of CDI with respect to the Impugned Containers” on one of these two dates. Accordingly, the Commissioner “had until July 8 or 23, 2025, to issue a penalty” whereas the penalties were issued in the Decision dated August 5, 2025.

Consideration of Licensee’s Response

17. For the reasons set out below, I am not persuaded by CDI’s Submissions and have determined that the appropriate administrative penalty is \$10,000 and a suspension of CDI’s CTS license for six months or until it produces the Requested Records, whichever is sooner.

⁴ August 7, 2025 submission, page 9

⁵ August 13, 2025 submission, page 2

Interpretation of the Act and jurisdiction

18. CDI argues that the *Act* does not capture the Impugned Containers and the Commissioner does not have jurisdiction to require CDI to produce the Requested Records pursuant to Appendix D of the CTS License. I understand CDI to be submitting that the “Impugned Containers” did not transit through a marine terminal via a CDI truck and therefore the Commissioner does not have jurisdiction to demand the Requested Records or to penalize CDI for failing to produce them or for failing to use tagged trucks to move the Impugned Containers.
19. I set out my conclusions on the Commissioner’s jurisdiction over the Impugned Containers at paragraphs 25-37 of the Decision and CDI has not changed my views on this issue. I am not persuaded that off-dock trips are “excluded” from the definition of “container trucking services” by section 2 of the *Regulation*. Nor am I persuaded that regulating off-dock trips is inconsistent with the purpose of the *Act*. The suggestion that the regulatory regime is only intended to capture containers moving to or from the marine terminals (“on-dock trips”) overlooks the following: the specific commitment in the 2014 Joint Action Plan (signed as a result of a container trucker work stoppage at the Port of Vancouver) to introducing an “off-dock” rate of pay; the 2014 Corrine Bell and Vince Ready Report (“Ready/Bell Report”) which included specific dollar amounts for off-dock rates to ensure drivers were properly compensated; and, the implementation of the off-dock rate by the Lieutenant Governor in Council in the *Regulation*. Off-dock rates are assigned to “specified” container trucking services (“off-dock trips”) as per section 22 of the *Act*. I made a similar point in the Simard Westlink Inc. (CTC Decision No. 04/2024) – Reconsideration (February 22, 2024) at paragraphs 65 to 67 and in KD Truckline Ltd. (CTC Decision No. 11/2024) – Decision Notice (June 25, 2024) at paragraph 63.
20. The Ready/Bell Report section 4(c)(ii) noted that while on-dock rates were regulated through the port prior to the introduction of the *Act*, off-dock rates were not and that “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.” The authors recommended an off-dock rate but cautioned that they were generally concerned that “undercutting and gamesmanship” in the industry would continue and “companies and drivers will seek to find loopholes in the proposed wage system.”
21. In Forfar Enterprises Ltd. (CTC Decision No. 20/2016) Commissioner MacPhail found the inclusion of off-dock rates in the *Regulation* was consistent with his interpretation of the *Act* as applying to the movement of containers that did not travel directly to or from a marine terminal. In that case, the licensee argued that the movement of containers between rail yards and customer locations in the Lower Mainland was not captured by the *Act*. Commissioner MacPhail confirmed that containers moved from rail yards to customers in the Lower Mainland are within the scope of the *Act* because “the legislation makes the payment of the legislated rates a term of the privilege of holding a TLS license.” More specifically: “In return for being licensed to perform on-dock container trucking work, the licensed trucking company must comply with the legislation, including required pay rates for all

work falling within the scope of the legislation” (at paragraph 35). In other words, the *Act* treats licensed and unlicensed companies differently in respect of the same type of work for a reason. I made a similar point in Simard Westlink Inc. (CTC Decision No. 09/2023) - Commissioner Decision (August 25, 2023) at paragraph 40 and in KD Truckline Ltd. (CTC Decision No. 16/2025) – Reconsideration (June 5, 2025) at paragraph 67.

22. Simply put, it would be absurd to interpret the *Act*, *Regulation* and the CTS licence as applying only to trips that transit through a marine terminal (on-dock trips) after the parties to the 2014 labour dispute signed a Joint Action Plan dealing with off-dock trips, the Ready/ Bell Report recommended off-dock trip rates and its recommendation was adopted by the LGIC in the *Regulation*.
23. I am not persuaded that anything in the *Act* or *Regulation* limits the Commissioner from introducing the Appendix D record keeping and production requirements for work involving the movement of containers beyond “prescribed” container trucking services because I do not accept that the *Act* is restricted to “prescribed” services. I am not persuaded that the use of the term “container trucking services” is modified by section 2 of the *Regulation*. Rather, the language of section 2 of the *Regulation* is expressly for “the purpose of section 16 of the *Act*.” The *Act* is broader than section 2 of the *Regulation*.
24. CDI’s interpretation would lead to the absurd result of licensees only being required to maintain and produce payroll records related to “on-dock” trips and the Commissioner not being able to ensure that drivers were paid the regulated “off-dock trips.”
25. In the Decision, I determined that CDI’s movement of the Impugned Containers between two facilities in the Lower Mainland on January 8, 2025 qualified as specified container trucking services and “off-dock trips” and the licensee was required to pay the drivers the regulated rates and display a truck tag. I am not persuaded that the container trucking services in question are outside of the scope of the *Act* or that it is outside of the Commissioner’s jurisdiction to demand the Requested Records.
26. Accordingly, I remain of the view that an administrative penalty can be imposed for moving the Impugned Containers without a truck tag and for refusing to provide the Requested Records.

Outside Mandatory Time Limits

27. I am not persuaded that six months under section 34(1) of the *Act* began to run on either January 8 or 23, 2025 because I cannot be said to have been aware of a breach at either of those times. The Investigation Report dated January 23, 2025, does not make any findings of fact but rather describes “alleged” breaches observed on January 8, 2025. It provides “CDI with an opportunity to provide submission[s] and/or additional information including any submissions or information about whether any of the Impugned Containers or other containers allegedly moved by CDI Truck Units on the respective dates are covered by the *Act*, *Regulation* or CTS Licence.” Like all licensees under

investigation, CDI was given an opportunity to respond to the observations recorded in the Investigation Report before the Commissioner made any findings. The Commissioner was not “aware” of the breach of section 6.16 and 6.17 when the investigator observed the Impugned Containers on January 8 or finalized the Investigation Report on January 23 as the Commissioner had not made a finding by either of those dates.

28. As set out in the Decision, the administrative penalties proposed were also based on CDI’s breach of Appendix D of the 2024 CTS licence (its failure to provide the Requested Records by the extended deadline of March 31, 2025). CDI had not breached Appendix D of the 2024 CTS licence on January 8 or 23, 2025, for the simple reason that CDI was given until March 31, 2025 to comply.
29. Six months begins to run on the date the Commissioner makes an actual finding of non-compliance. CDI’s response to the Investigation Report was dated March 31, 2025 and consisted of detailed submissions totaling six pages setting out, for the first time, its position that it was not in breach of section 6.16 and 6.17 of the CTS license. CDI raised substantive issues regarding the jurisdiction of the Commissioner. CDI also advised in its March 31, 2025 submissions that it would not provide the Requested Records. I could not have been aware that CDI had failed to comply until after I had reviewed and considered the Investigation Report and CDI’s submissions.
30. On my analysis, then, the Commissioner only becomes aware of a licensee’s failure to comply with *Act*, *Regulation*, or CTS license after reviewing and considering the OBCCTC audit and/or investigative report(s) and the licensee’s response(s) to same and finding as a fact that there has been a failure to comply. This is consistent with AMK Carrier Inc. (CTC Decision No. 03/2020) – Decision at paras 55-57. Accordingly, six months begin to run from the date of the August 5, 2025 Decision which found CDI in contravention of sections 6.16 and 6.17 and Appendix D of the CTS licence. CDI’s suggestion that the penalties were imposed in the Decision is not correct. The penalties were proposed based on the findings made in the Decision (see section 34(2) and (3) of the *Act*) but are not imposed until the licensee has had an opportunity to respond to them and the Decision Notice issued (section 34(4) and (5) of the *Act*).
31. On another analysis, the six months for the refusal to produce the Requested Records could be argued to begin when CDI failed to produce the Requested Records by the March 31, 2025 deadline. On this analysis, which I do not accept because it overlooks the need to assess CDI’s submissions as to why it was not required to produce the Requested Records, I might be said to have been aware that CDI had failed to provide the Requested Information by March 31, 2025. Even under this analysis, any penalty for breach of Appendix D must be imposed before the end of September 2025.
32. As per paragraph 43 of *Safeway Trucking Ltd. v Office of the British Columbia Container Trucking Commissioner*, 2023 BCSC 589 the Court would have accepted the view set out above if it had been called upon to decide the issue on its merits. The Court also noted at paragraph 41 that section 34(1)

of the *Act* could be construed as ensuring “that harmful conduct by licensees is addressed promptly once it is detected, in order to protect drivers and discourage renewed labour unrest.” I believe that section 34(2) of the *Act* is less for the benefit of licensees and more for the benefit of drivers and that it should be read in the manner set out above for this reason.

33. Additionally, and for this reason among others, even if the proposed penalties here were issued outside of the six-month period, they would not necessarily be ineffective. In my opinion a licensee cannot avoid the consequences of its non-compliance where there is no clear prejudice to the licensee (other than the penalty), where the statute is meant to benefit drivers, and where the licensee is responsible for some or all of the delay.

Conclusion

34. I am not persuaded to reduce or refrain from imposing the proposed administrative penalties. Having carefully considered CDI's Submissions, and for the reasons set out here and in the Commissioner's Decision, I order CDI to pay an administrative fine of \$10,000.00.
35. I also order that CDI's licence be suspended for a period of six months or until it provides the Requested Information, whichever is sooner.
36. On August 1, 2025, Justice Fitzpatrick stayed a licence suspension that had been issued in Canada Drayage Inc. (CTC Decision No. 18/2025) -- Decision Notice until one week after the reconsideration decision of that matter.⁶ Given some of the overlapping issues here, I order CDI's CTS license to be suspended effective one week after the reconsideration of Canada Drayage Inc. (CTC Decision No. 18/2025) -- Decision Notice is issued .
37. Section 35(2) of the *Act* requires this fine to be paid within 30 days of the issuance of this Decision Notice.
38. CDI may request a reconsideration by filing a Notice of Reconsideration with the Commissioner not more than 30 days after its 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; and

⁶ BC Supreme Court File No. VLC-S-S-255679

f) signed by the applicant or the applicant's counsel.

39. Despite the filing of a Notice of Reconsideration, but subject to section 39(2), the above orders remain in effect until the reconsideration application is determined.

40. This Decision Notice along with the Commissioner's Decision will be published on the OBCCTC's website (www.obcctc.ca).

Dated at Vancouver, B.C., this 29th of September 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