November 19, 2025

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

Commissioner's Decision
Canada Drayage Inc. (CTC Decision No. 33/2025)
(Application for Reconsideration of CTC Decision No. 18/2025)

Introduction

1. On August 7, 2025, the Office of the BC Container Trucking Commissioner ("OBCCTC") received an application from Canada Drayage Inc. ("CDI") pursuant to section 38 of the *Container Trucking Act* ("*Act*") seeking reconsideration of a July 28, 2025 Decision Notice (CTC Decision No. 18/2025) ("Decision Notice") and July 8, 2025 Commissioner's Decision (CTC Decision No. 18/2025) ("Decision").

Commissioner's Decision and Decision Notice and Judicial Stay

2. In the Decision, I found that CDI failed to comply with an order issued on November 29, 2024 pursuant to section 9 of the *Container Trucking Act* ("*Act*") ("Order #3")[1] after CDI failed to provide payroll documents ("Required Records")[2] by the extended deadline. I also found CDI was in breach of sections 23 and 24 of the *Act* when it failed to pay the regulated rates to drivers who performed container trucking services under its Fastfrate division and deducted a financial offset from one driver. Based on its failure to provide the Required Records only, I proposed an administrative penalty of $10,000 and a licence suspension of six months, or until such time as CDI complied with Order #3. I also ordered CDI to pay the monies owing for the financial deduction and its failure to pay the regulated rates by no later than August 8, 2025. Consistent with s. 34(2) of the *Act*, CDI was provided with the prescribed seven days to respond.

3. CDI provided a response by the deadline and in the Decision Notice I imposed a $10,000 administrative fine to be paid within 30 days and ordered that CDI's license be suspended effective 12:01am on July 31, 2025 for a period of six months or until it complies with Order #3, whichever is

[1] CDI's August 7, 2025 submission refers to "Order #3" as the "2024 Order." For continuity and consistency with the Decision, I have used the term "Order #3."
[2] As described in paragraph 10 of the Decision.

sooner.

4. The Commissioner's Decision and the Decision Notice were published on or around July 29, 2025.

5. CDI brought an application for a stay. On August 1, 2025, Justice Fitzpatrick in BC Supreme Court File No. VLC–S-S-255679 granted a stay until one week after the Commissioner issues a reconsideration and ordered CDI to submit a reconsideration application to the Commissioner by noon on August 7, 2025.

6. On November 17, 2025, while CDI's reconsideration application was before me, CDI wrote to advise that it intends to "surrender" its CTC license effective December 19, 2025 and that on or before that date it will "no longer perform any prescribed container trucking services as defined in section 16 of the *Container Trucking Act*." CDI also advised that it would pay the administrative fines issued in the Decision Notice and in CTC Decision No. 26/2025 – Decision Notice forthwith without prejudice to its right to seek judicial reviews in the event it chooses to do so.

Reconsideration

7. CDI argues that the Commissioner has a flawed interpretation of the *Act, Regulation* and the CTS license and lacks jurisdiction to issue the Decision, to require CDI to produce the Required Records and to penalize CDI for failure to comply with orders for it to do so "solely on the basis that CDI is a licensee under the *Act."* CDI also argues that the administrative penalties are outside the time period set out in section 34(1) of the *Act* and the Commissioner's failure to provide advance notice of the license suspension was in breach of section 34(2)(b) of the *Act.* Finally, CDI argues the penalties are inconsistent with the factors set out in Smart Choice Transportation Ltd. (CTC Decision No. 21/2016).

Flawed Interpretation of the Act and Regulation

8. 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 CDI says is "to deal with economically disruptive work stoppages affecting trucking companies transporting containerized cargo to and from ocean ports." Furthermore, the Commissioner's interpretation "erroneously interprets the *Act* in a manner that treats licensed and unlicensed companies differently in respect of the exact same type of work…."

9. According to CDI, the regulatory regime only applies when a licensee is carrying out the "prescribed container trucking services" in a "prescribed area" set out in s. 16 of the *Act* and defined in section 2(1) of the *Regulation*. CDI argues that, based on a harmonized reading of the *Act* and the

Regulation along with what it characterizes as the purpose of the legislation, the *Act* applies only to container moves that "access to a marine terminal, subject to certain exceptions." It maintains that its reading is supported by the regulatory definition 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 argues 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 concludes 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 that prescribed container trucking services "can only include on-dock trips and *expressly exclude off-dock trips* (my emphasis)."

10. CDI argues that because containers moved by trucks working in its CP Rail division do not travel to or from a marine terminal they are not "prescribed container trucking services."

11. Similar arguments were considered in Can. American Enterprises Ltd. (CTC Decision No. 12/2020) – Decision Notice, Simard Westlink Inc. (CTC Decision No.09/2023) – Commissioner's Decision, and KD Truckline Ltd. (CTC Decision No. 11/2024) – Commissioner's Decision.

12. In the Can. American Decision Notice (upheld in CTC Decision No. 03/2021 – Reconsideration), the then-Commissioner dismissed similar reasoning as follows:

> 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.
>
> (para 11)

13. In the KD Truckline Commissioner's Decision (largely upheld in CTC Decision No. 15/2025 -- Reconsideration), I adopted the analysis set out in Can. American and dismissed reasoning similar to that put forward by CDI as follows:

> . . . 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 the 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.
>
> (para 63)

14. In Simard Westlink Inc.- Commissioner's Decision (largely upheld in CTC Decision No. 04/2024 – Reconsideration), I addressed the absurdity of Simard's interpretation that only container movements to or from a marine terminal ("on dock trips") are regulated:

> Simard's view that a container must be moved to or from a marine terminal in order to attract the off-dock rate would make the inclusion of off-dock rates in the rates first set by the LGIC, and now by the Commissioner, meaningless. By definition, all off-dock trips are between two facilities in the Lower Mainland (excluding marine terminals) and if Simard's interpretation were adopted, no container movement would ever attract an off-dock rate.
>
> (para 37)

15. I agree with the above-cited approach taken in Can. American, Simard, and KD Truckline. Section 2 of the *Regulation* explicitly and only establishes the type of the container trucking services that require a licence, it does not "prescribe" which container trucking services require licensees to pay a regulated rate or limit the terms and conditions of the CTS license to only "on-dock" container trucking services. Section 22 of the *Act* requires licensees (those who perform on-dock trips and require a license) to pay a regulated rate for "specified" container trucking services (including "off dock trips") when they move a container between facilities in the Lower Mainland.

16. I am not persuaded that off-dock trips are "excluded" from the definition of "container trucking services" through section 2 of the *Regulation* or that the approach taken in the decisions cited above is inconsistent with the purpose of the *Act.* The suggestion that the regulatory regime is only intended to address containers moving to or from the marine terminals ("on dock trips") is inconsistent with the 2014 Joint Action Plan ("JAP") (signed as a result of a container trucker work stoppage at the Port of Vancouver) that specifically committed to introducing an "off-dock" rate of pay, inconsistent with the Corrine Bell and Vince Ready Report ("the Ready/Bell Report") which

included a specific dollar amount for off-dock rates to ensure drivers were properly compensated, and inconsistent with the implementation of the off-dock rates in the *Regulation* as passed by the by the Lieutenant Governor in Council ("LGIC"). Off-dock trips rates are for "specified" container trucking services (including "off-dock trips") as per section 22 of the *Act.*

17. The Ready/Bell Report noted that prior to the introduction of the *Act* on-dock rates were set through the port while off dock work was not regulated and that "without adequate compensation (for off dock movements) 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 remained concerned that "undercutting and gamesmanship" would continue and "companies and drivers will seek to find loopholes in the proposed wage system."[3]

18. In Forfar Enterprises Ltd. (CTC Decision No. 20/2016) Commissioner MacPhail found that 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. There, also, 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. 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" (para 35). I made a similar point in the Simard Westlink Inc. (CTC Decision No. 09/2023) - Commissioner Decision (August 25, 2023) at paragraph 40 and KD Truckline Ltd. (CTC Decision No. 16/2025) – Reconsideration (June 5, 2025) at paragraph 67. CDI's reconsideration submissions have not convinced me to change this analysis here.

19. CDI has 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" on-dock and off-dock in the Lower Mainland. It cannot avoid paying the regulated off-dock rates to drivers who move the same type of containers to and from the port by creating a "division" of work that falls outside the scope of the legislation. In my opinion this was the type of "undercutting and gamesmanship" cautioned against in the Ready/Bell Report.

Requirement to provide Required Records

20. CDI argues that the *Act* does not give the Commissioner jurisdiction over off-dock moves and the licence cannot expand the Commissioner's jurisdiction beyond what is granted in the *Act.* As set out above, I do not accept that the *Act* covers only "prescribed" container trucking services.

[3] Ready Bell Report, section D - Rates of Pay.

Accordingly, I do not accept CDI's submission that the licence cannot regulate or impose requirements around anything other than "prescribed container trucking services."

21. CDI also argues that its "CP Rail Division" is not required to retain or produce the records described in Appendix D of the CTS license "because section B of Appendix D contains a number of conditions that can only be read in an intelligible way if they are interpreted to apply to prescribed container trucking services."

22. CDI argues the definition of "wait time remuneration" (compensation owing for wait time at marine terminals) is consistent with its position that licensees are only required to maintain records related to prescribed container trucking services. CDI also argues "it must be inferred" that sections 6.7 - 6.13 of the CTS license (requiring licensees to retain data related to trips and hours) applies only to truckers that perform "prescribed" container trucking services.

23. CDI argues that the *Act*'s three paragraph definition of "trucker" must be read conjunctively. Accordingly, CDI argues, section (b) of the definition requires a driver to be "an employee…of a licensee performing container trucking services" and where "trucker" is used in the licence it is restricted to employees who are performing prescribed container trucking services. Alternatively, CDI argues that if the definition is read disjunctively, it must be read as only applying to "prescribed" container trucking services since the *Act* only applies to "prescribed" container trucking services."

24. I am not persuaded that the information keeping and production requirements in the CTS license apply only to "prescribed" container trucking services. Nowhere in the CTS license is the term "container trucking services" modified by the term "prescribed." Additionally, I do not accept that the definition of "wait time remuneration" implies that the *Act* and *Regulation* only deal with containers that move through marine terminals. It merely addresses payments made to drivers who are delayed at the marine terminal. It is more relevant that both the *Act* and licence define, and set out certain requirements around, "off dock trips" – container movements that do not transit through a marine terminal.

25. At paragraphs 32 and 36-38 of the Decision, I explained that Appendix D of the license is broadly worded, requiring licensees to keep, and provide upon request, records in the possession of not only the licensee, but also in the possession of Related Persons, and affiliates and successor companies. I also set out why these requirements were not restricted to "prescribed" container trucking services, or even "container trucking services" generally and CDI's most recent submissions have not changed my analysis.

26. I am not persuaded that the use of the term "container trucking services" in section 6.9 to 6.11 of the 2022 CTS licence is relevant. The information sought by the auditor – as described in

paragraph 10 of the Decision – was requested pursuant to Appendix D. Appendix D (B)(f) of the 2022 CTS license requires licensees to maintain trucker payroll records – not just truckers performing container trucking services -- consistent with sections 27 and 28 of the *Employment Standards Act.*

27. The definition of trucker set out in section 1 of the *Act* should be read disjunctively as it captures the different types of persons normally engaged in the container trucking industry – owner-operators, company drivers and subcontracted drivers. If CDI's conjunctive interpretation were correct, the *Act* would exclude any person that is not an employee (within the meaning of the *Employment Standards Act*) of a licensee, including owner-operators who contract their services and the employees of owner-operators (who are not employees of the licensee).

28. CDI also argues that "for the Commissioner to rely on section 32 to demand the Records, there must be at least some conceivable breach of the *Act* that could have occurred and which the Records would disclose.*"* CDI says that the Required Records were ordered "based on speculation of a potential breach of the *Act*…and not a reasonable suspicion of a breach of the *Act.*" Furthermore, CDI argues that section 32 of the *Act* only applies to prescribed container trucking services because "there could be no reasonable apprehension of a breach of the *Act* in respect of such non-prescribed container trucking services that the exercise of those powers could be predicated upon."

29. At paragraph 41 of the Decision, I explained that Order #3 could be made without involving section 32 of the *Act.* CDI's most recent submissions do not convince me otherwise. Accordingly, there is no reason to address section 32 further. However, I will note that I disagree with CDI's assertion that at the time Order #3 was made there was "not a reasonable suspicion of a breach of the *Act.*" I explained at paragraph 13 of Order #3 that the auditor had not been provided the Required Records because CDI did not consider it was required to produce them but the records that the auditor had been provided indicated that drivers were paid less than the regulated for moving containers that "met the regulated definition of containers." While I was unable to conclude from the Audit Report that a breach occurred involving the CP Rail Division work, I was satisfied that CDI's interpretation of the *Act* was incorrect vis a vis the Fastfrate division work and it was reasonable to assume that CDI might be applying the same incorrect interpretation to the CP Rail Division.

30. Finally, at paragraph 37 of the Decision, I noted CDI was warned on April 20, 2020 that movements of containers by licensees to and from rail yards are captured by the *Act* and Commissioner had made clear on multiple occasions that licensees must pay the regulated rates for container movements to and from the rail yards. Throughout its requests for a preliminary assessment and the subsequent audit, CDI has made it clear that it does not agree with the Commissioner's interpretation of the *Act* and is relying on its own interpretation that a container must transit

through a marine terminal to be captured by the *Act.*

Outside Mandatory Time Limit

31. CDI restates its prior argument that the administrative penalties are outside the six-month time limit established under section 34(1) of the *Act* because Order #3 was issued on November 29, 2024.

32. I addressed this argument in paragraphs 19 to 22 of the Decision Notice. CDI's reconsideration submission is largely a restatement of its prior arguments and has therefore not changed my conclusions on this issue.

Smart Choice Factors

33. At paragraphs 8 to 14 of the Decision Notice, I summarized CDI arguments around why the administrative penalties were inconsistent with the principles set out in Smart Choice and CDI's reconsideration submission is also largely a restatement of its prior argument and has not changed my conclusions on the issue.

34. I am not persuaded that CDI's "good faith" request for the audit to ensure compliance in the absence of employee complaints and its "bona fide legal argument" as to why it is not required to provide the Required Records are mitigating factors – much less that they are not aggravating factors in assessing the administrative penalty.[4] First, the purpose of the administrative penalty in this case was to address CDI's failure to comply with Order #3; its compliance with Order #3 was necessary to determine the "compliance" outcome CDI argues it was seeking. Second, I noted in the Decision that the Teamsters and an individual driver had in fact complained that CDI was non-compliant prior to the initiation of the audit.[5] Finally, CDI was aware of the OBCCTC's position that CDI must pay the regulated rates when moving containers to and from CN and CP intermodal yard and the OBCCTC's position was well known prior to the request for the audit in 2022.[6]

35. I also do not agree that CDI's failure to provide the Required Records is on the "lower end of the spectrum of severity."[7] The refusal to provide the Required Records must be considered in the context of the OBCCTC's ability to ensure those drivers working in the "railway division" get paid what they are due. CDI's refusal to comply with Order #3 has hindered the Commissioner's ability to determine how many drivers work for the "railway division" and the monies owing to them if I determine that those drivers were performing container trucking services. CDI is required, as a condition of its license, to provide a security bond corresponding with the number of tagged trucks

[4] CDI Submission – page 14.
[5] Decision, paras 8 and 9.
[6] Decision, para. 37.
[7] CDI Submission - page 11.

performing container trucking services. I am concerned that the security bond, which does not account for these drivers, may prevent them from being properly compensated if CDI is found to own an amount that exceeds its security.

Advance Notice

36. CDI argues that section 34(2)(b) of the *Act* requires that a licensee be provided advance notice of the "period for that suspension" and that "period" means two points in time and the licensee must therefore be notified not only of the length of time of the proposed suspension but also given advanced notice of "when a penalty is to come into effect." CDI argues that Commissioner's giving only 72 hours' notice of the effective date of the suspension in the Decision Notice means the licensee was denied an opportunity to "prepare and respond" to the proposed suspension. CDI further suggests that the remedy for the Commissioner's failing to comply with section 34(2)(b) of the *Act* is to revoke the suspension.

37. CDI was provided advance notice of the duration of the proposed suspension in the Commissioner's Decision dated July 8, 2025 pursuant to section 34(2)(e) of the *Act* and was provided with an opportunity to make a submission prior to the issuance of the Decision Notice. I am not persuaded that section 34(2)(b) of the *Act* requires the Commissioner to specify the date upon which the suspension will start in the Decision. Section 34(6)(a) says that a suspension "must not exceed a period of 1 year" which is consistent with the "period" referenced in section 32(b) being a duration. Additionally, it would not be practical to set out the specific date a proposed suspension (or cancellation) would take effect in a Commissioner's Decision because section 34 affords the licensee an opportunity to respond within 7 days and the Commissioner must consider the response and provide a Decision Notice at some future unknown date.

38. Additionally, CDI could have made submissions on the timing of the suspension in response to the Commissioner's Decision, and it did not. I find that three days' notice was reasonable in the circumstances, and I note that CDI has always been able to control both the effective date and the length of the time of the suspension (simply by complying with Order #3 within the seven days it had to respond to the Decision). It was also open to CDI to file a preliminary reconsideration of the Decision Notice pursuant to section 38 of the *Act*, seek a stay of the suspension pursuant to section 39, and perfect its reconsideration later. In any event, even if CDI were correct that it ought to have received more notice in advance of the effective date of its suspension, a more appropriate remedy would be more notice, not to cancel the suspension altogether. As set out below, I have given CDI somewhat more notice of the effective date of the suspension now.

Surrender of License

39. CDI advised the OBCCTC that it will no longer perform prescribed container trucking services effective December 19, 2025 and will surrender its CTS license. Pursuant to section 21(2) of the

Act, I am therefore providing notice to CDI that its CTS license number 24-020 will be cancelled on December 19, 2025.

40. The cancellation of CDI's license on December 19, 2025 does not change my decision to issue a suspension of its license. CDI has failed to comply with Order #3 and without the payroll information it has been ordered to produce it will be difficult to ensure that its drivers have been properly compensated for any regulated work they performed. CDI is unlikely to be motivated to comply with Order #3 after December 19, 2025. Licensees cannot and should not be able to surrender their CTS license to avoid complying with an order that will ensure drivers are properly paid. While the suspension of CDI's license may be effectively shorter in duration, it may still motivate CDI to comply with Order #3 and, if it does not, the question of any monies owing to drivers may be dealt with in another way.

Conclusion

41. For the reasons set out above, I dismiss CDI's application for reconsideration and confirm the administrative fine of $10,000 and the suspension of CDI's license for a period of six months or until it provides the Required Records – whichever is first.

42. On August 1, 2025, Justice Fitzpatrick in BC Supreme Court File No. VLC–S-S-255679 granted a stay until one week after the Commissioner issues a reconsideration. Accordingly, I will amend the order at paragraph 38 of the Decision Notice as follows:

> I order CDI to pay an administrative fine of $10,000 by no later than 7 days after the date of this Reconsideration. I also order CDI's CTS license to be suspended effective 12:01 am on November 27, 2025 for a period of six months less two days (accounting for the period of suspension served by CDI between July 31 and August 1, 2025) or until it complies with Order #3, whichever is sooner.

43. This reconsideration will be published on the Commissioner's website.

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

Glen MacInnes
Commissioner