

**UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT
DISPUTE RESOLUTION PANEL REVIEW AND DECISION**

In the Dispute Between)

UIIA MC,)
Appellant, and)

UIIA EP,)
Respondent)

Case Number: **20170607-1-XXXXR-PD**

Date of Decision: 10/31/2017

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICES:

Invoice	Invoice #	Inv. Date	Unit #	Facility	Outgated	Ingated	Date MC rec'd inv.	Date MC disputed the inv.	Date EP responded to MC's dispute	Notice of Intent Rec'd
1	PDUER0057787	2/6/17	CCLU3732157	SSA Terminal/SSA Terminal	1/18/17	1/20/17	2/6/17	2/9/17	5/23/17	6/7/17
			CSLU1236502	SSA Terminal/SSA Terminal	1/19/17	1/23/17				
			FSCU8979553	SSA Terminal/SSA Terminal	1/17/17	1/24/17				
2	PDEUR0058168	2/24/17	CCLU7407052	SSA Terminal/SSA Terminal	1/30/17	2/10/17	2/24/17	2/9/17	5/23/17	6/7/17

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier's basis of dispute is Section B.18 of the UIIA. The Motor Carrier stated they were instructed to pick up loaded containers from EP's terminal at the port and deliver the loads to the Customs Exam Station in Jacksonville, FL (CES) for inspection. The loads were examined by CES, released and the loaded containers were returned back to the port by the Motor Carrier. Therefore, the Motor Carrier believes that because they have

an ingate EIR showing that the loaded, inspected containers were returned back to the port they should not be held liable for per diem after the date of ingate.

EQUIPMENT PROVIDER’S RESPONSE TO MOTOR CARRIER’S DISPUTE:

The Equipment Provider did not respond to the arbitration claim. However, during the Motor Carrier’s initial dispute of the charges, the Equipment Provider responded stating that the per diem begins when the container is picked up full and ends when it is returned empty. Per diem is billed to the first trucker that picks up the container. The Equipment Provider stated they do not waive per diem for any reason, this includes custom exams. In addition, the Equipment Provider stated they do not get involved with any type of exams done at an off dock facility.

DECISION:

After careful review of all documents and the evidence submitted by the parties, the panel unanimously finds in favor of the Motor Carrier. The Motor Carrier panel member initially commented that Force Majeure may apply since the box was under the control of U.S. Customs, which was beyond the control of the Motor Carrier. However, after further discussion with the Ocean Carrier panel member agreed that Section E.6.d. was applicable in this case.

The Ocean Carrier panel member also found in favor of the Motor Carrier noting that customs arranged the dray with the trucking company for an exam. The trucking company did not have a relationship with the account of the cargo owner and could not recoup any expenses incurred as a result of the transaction. The Ocean Carrier should have billed their customer the charges according to the terms of the B/L. In addition, while the Provider had documentation that the container was in fact interchanged, it ignored the reasonable dispute from the Motor Carrier about the customs exam and customer related issues. Section E.6.d. of the UIIA applies.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (January 1, 2017) to make its decision:

B. Definitions of Terms

- 18. Interchange Period: The period, commencing upon Interchange to Motor Carrier and concluding upon Interchange to Provider or another Motor Carrier that is authorized for Interchange by that Provider. **[Revised 06/13/16]**

E. Equipment Use

- 6. Free Days, Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage Charges
 - d. Provider shall provide the Motor Carrier documentation as is reasonably necessary to support its invoice.

DECISION: The panel unanimously finds in favor of the Motor Carrier.

CASE REVIEWED AND DECIDED BY:

DAVE MANNING

Motor Carrier Member

AL SMERALDO

Ocean Carrier Member