

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

DISPUTE RESOLUTION PANEL REVIEW AND DECISION

In the Dispute Between)
)
)
UIIA Motor Carrier) Case Number: **20140725-2-XXXP-PD**
Appellant, and)
)
UIIA Equipment Provider) Date of Decision: 11/12/14
Respondent)

UNDISPUTED FACTS: The Equipment Provider (EP) sent the Motor Carrier (MC) a per diem invoice on May 21, 2014, in the amount of \$00.00. The invoice shows that the unit was out-gated on 09/29/2011 and in-gated on 05/16/2014, a total of 955 days with a rate of 120.00 per day.

ISSUE: The MC disputes the invoice on the grounds that the driver that out-gated the unit was not an active/authorized driver for their company. The MC notified Sealink on 08/10/2010 (more than 13 months before this incident) to suspend this driver’s port terminal access and interchange privileges under their SCAC code. Therefore, the MC believes that the driver should not have had access to the unit in question. Further, the MC states that they were not notified of this unit being missing until 05/21/2014, approximately 32 months after the interchange receipt was issued. The MC bases their dispute on sections E.2.a, and E.2.d, E.6.d. and E.6.f. of the UIIA.

The EP responded to the MC’s dispute by stating that the driver in question dropped an empty container/chassis off at the New York Container Terminal (NYCT) under the MC’s SCAC code on 9/29/2011, and the MC charged the EP for the move. That same driver picked up the unit in question 38 minutes later from the same facility, NYCT, under the same SCAC. Therefore, since the MC charged the EP for the first move, they feel that the driver in question was an active driver for their company. The EP believes therefore, the invoice is due as charged.

DISCUSSION: The panel reviewed all documents and evidence submitted by the parties. The panels finds in favor of the MC. The evidence proves that the EP did not notify the MC that the container and chassis were lost, stolen or destroyed within the 18 months from the date of interchanged as prescribed under provision E.2.d of the UIIA and section 5.H of the EP’s Addendum. The EP’s right to recover the actual cash value of the equipment or any associated charges (in this case per diem) were lost when they failed to notify the MC as required by these sections.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (February 10, 2014) to make its decision:

E. Equipment Use....2. Lost, Stolen, or Destroyed Equipment

d. Provider will notify Motor Carrier within 18 months from the date of Interchange if Equipment is declared lost, stolen or Destroyed. If Provider does not so notify Motor Carrier, the right to recover any associated charges or Actual Cash Value will be lost.
[Revised 09/01/09]

EP's addendum to the UIIA

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Addendum to the Uniform Intermodal Interchange and Facilities Access Agreement

Section 5. SETTLEMENT FOR LOST, STOLEN OR DESTROYED EQUIPMENT

- H. Provider will notify Motor Carrier within 18 months from the date of Interchange if Equipment is declared lost, stolen or Destroyed.

DECISION: The panel unanimously finds in favor of the MC.

CASE REVIEWED AND DECIDED BY:

FRED HUENNEKENS
Motor Carrier Member

ROBERT CANNIZZARO
Ocean Carrier Member