

**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: **20180409-8-XXXF-MR-OTH**

Date of Decision: 08/28/2018

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICE:

Invoice	Invoice #	Container #	Inv. Date	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	8045	MEDU462871-8	03/14/18	PNCT/C & C Marsh Depot	10/25/17	10/27/17	3/14/18	3/27/18	3/27/18	4/9/18

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier's basis of dispute is Section E.3.a. (1) of the UIIA. The Motor Carrier identifies the following reasons for its dispute:

- The backup documentation provided by the Equipment Provider is only a repair estimate. There was no documentation provided by the Equipment Provider to evidence that the repairs were actually performed.
- The repair estimate lists multiple items that are not notated on the ingate EIR.
- The Motor Carrier believes that it could not have caused the type of damage that the Equipment Provider is billing for.
- The Motor Carrier stated that the container was in this condition when it was picked up from PNCT on 10/25/17 and was in their possession for two days. The Motor Carrier feels that the Equipment Provider has not provided sufficient documentation to prove the damage being billed was done while equipment was in its possession. Consequently, the Motor Carrier does not believe they are responsible for the invoice.

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

The Equipment Provider did not respond to the arbitration claim. The Equipment Provider did respond to the Motor Carrier's initial dispute stating that the damage would have been clearly visible to the driver when picking up the load from PNCT. The Motor Carrier's drivers are responsible to visually inspect equipment prior to accepting it for interchange and to ensure that any damages are recorded on the outgate EIR. The Equipment Provider also stated that in this particular case the driver left with a clean EIR, which it believes points to the damage occurring during the Motor Carrier's

possession of the equipment. Therefore, the Equipment Provider feels that based on the documentation available this container left PNCT in good order so the Motor Carrier is responsible for the damage identified on the ingate interchange.

DECISION:

The panel carefully reviewed all documents and evidence submitted by the parties. Based upon the supporting documents and evidence submitted, the Motor Carrier panel member found in favor of the Motor Carrier due to lack of documentation from the Equipment Provider to substantiate the repairs and further stating there was no proof supplied that the damage was done prior to the outgate other than the unsubstantiated claim that it was done while being loaded or unloaded from the vessel. The Ocean Carrier panel member found in favor of the Equipment Provider citing Section D.2.a of the UIIA and noting that the Motor Carrier had a responsibility to notate damage and record it on the interchange documentation.

Because the modal members could not reach a consensus, the senior DRP panel was brought in to render the final decision pursuant to Exhibit D.3 of the UIIA.

Upon review of the information submitted with the claim, the senior arbitration panel found the case in favor of the Motor Carrier, but solely based on the fact that the Equipment Provider provided a repair estimate versus the actual repair bill as required under Section E.3.a. (1). The panel stated that it was important to note in this decision that if the Equipment Provider had provided the necessary documentation to support its invoice the case would have been found in its favor. The Motor Carrier's assertion that the damage was pre-existing does not remove its obligation under Section D.2. to notate the damage on the outgate EIR prior to accepting the equipment for interchange.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (September 16, 2017) to make its decision:

D. Equipment Interchange

2. Equipment Interchange Receipts

- a. At the time of Interchange, the Parties or their agents shall execute an Equipment Interchange Receipt and/or exchange an electronic receipt equivalent, which shall describe the Equipment and any Damage observable thereon at the time of Interchange, reasonable Wear and Tear excepted. The physical condition of the Equipment may be described by either Party within the EIR or via Recorded Images taken at the time of Interchange. **[Revised 05/12/10]**
- b. Use of electronic EIRs requires that the Provider or the Facility Operator provide an electronic system whereby the Motor Carrier may describe electronically, the condition of the Equipment at the time of Interchange, without substantially burdening the Motor Carrier's use of electronic EIRs at the same Premises, and that this information be incorporated as part of the electronic EIR. **[Revised 09/16/17]**

- c. Each Party shall be entitled to receive a copy and/or an electronic receipt equivalent of the Equipment Interchange Receipt as described in D.2.a above without charge. **[Revised 11/12/12]**
- d. If Recorded Images are taken at the time of Interchange, Damage will not be reported on ingate or outgate EIR. The words "Damage is captured on Recorded Images" will be printed on the Equipment Interchange Receipt. All such Recorded Images will be made available for each Party for a period of 1 year from Interchange without charge. **[Revised 11/12/12]**

E. Equipment Use

3. Damage to Equipment

- a. Motor Carrier shall pay to Provider the reasonable and customary costs to repair Damages done to Equipment during Motor Carrier's possession. **[Revised 09/01/09]**
 - 1) To be valid, invoices must detail the repairs done; include a copy of the actual repair bill upon which the invoice is based and include the factual documentation supporting the Provider's determination that the Motor Carrier is responsible. In instances where a copy of the actual repair bill is not available to Provider, documentation containing the repair vendor's name, repair date, location and a control number that ties the documentation to the invoice provided to the Motor Carrier is acceptable, in lieu of the actual repair bill. In the case of an AGS gate transaction such documentation must include images depicting the condition of the Equipment at the time of that Interchange. **[Revised 09/16/17]**

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

CASE REVIEWED AND DECIDED BY:

GERRY BISAILLON
Rail Senior DRP Panel Member

DAVE MANNING
Motor Carrier Senior DRP Panel Member

AL SMERALDO
Ocean Carrier Senior DRP Panel Member