

**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: **20200228-5-XXXM-PD**

Date of Decision: July 15, 2020

**THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICE:**

Invoice	Invoice #	Container #	Inv. Date	Amount	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	PDLAX0049058	DTXU9003430	2/20/2020	xx.xx	Long Beach Pier F / Long Beach Pier E	1/17/2020	2/7/2020	2/20/2020	2/26/2020	2/27/2020	2/28/20

**MOTOR CARRIER'S BASIS OF DISPUTE:**

The Motor Carrier is basing its dispute on Section E.1. of the UIIA. The Motor Carrier disputes the per diem invoice stating that the Equipment Provider instructed them to terminate the container 15 miles away from the original point of origin. The Motor Carrier informed the Equipment Provider of their split-fee rate to return the equipment to an alternate termination location or on-hire the unit to the original outgate location. The Equipment Provider would not agree to the Motor Carrier's split fee rate for providing this service. The Equipment Provider instead indicated that they had a standard rate they were willing pay the Motor Carrier for terminating the equipment at the alternate location. Therefore, the Motor Carrier believes that under Section E.1.e., the Motor Carrier has the right to receive compensation for the services being rendered. Consequently, because the Equipment Provider did not agree to the Motor Carrier's split fee rate to perform these services, the Motor Carrier believes the per diem clock should have been stopped at the time the EP notified them of the alternate return instructions and that no per diem should be owed.

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

The Equipment Provider responded to the claim indicating that the Motor Carrier picked up the container on January 17, 2020 and returned it on February 7, 2020 after free time had expired, which resulted in five days of per diem being accumulated. Consistent with the UIIA, the Equipment Provider issued an invoice for the detention that had accrued. The Motor Carrier does not dispute the number of days that they had the equipment in their control. The Equipment Provider agrees that the Motor Carrier should be compensated for the services rendered as stated in Section E.1.e.

of the UIIA. However, this provision also states that the terms of this compensation are outside of scope of the UIIA. The rates for services are negotiated between the involved parties. The Equipment Provider advised the Motor Carrier of its rate of compensation for this type of service. The Equipment Provider noted that there is no requirement in the UIIA that indicates that the per diem clock be stopped during the negotiation of rates between the two parties. The Motor Carrier had the equipment in its control during this time and could have performed the services while negotiations continued relating to the compensation. Therefore, the Equipment Provider feels that the invoice is valid and should stand.

**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 Equipment Provider stating that in reviewing Section E.1. of the UIIA, with emphasis on Section E.1.e., neither party denies that the MC should be compensated for the return of the equipment to a satellite location, just on the amount of compensation. However, in Section. E.1.e, it clearly states that “Compensation for services rendered in these circumstances is outside the scope of this Agreement.” The Motor Carrier panel member added that he believes the Agreement does not provide protection for the Motor Carrier when compensation disputes arise for the return of equipment, nor does it preclude the Motor Carrier from incurring per diem charges as a result of holding onto the equipment during the dispute. Pursuant to the existing language in Section E.1. of the UIIA, the Motor Carrier panel member’s decision is in favor of the EP.

The Ocean Carrier panel member also found in favor of the Equipment Provider stating that this determination is in alignment with Section E.1.e. of the Agreement.

**UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:**

**The panel relied upon the following provisions from the UIIA (January 20, 2020) to make its decision:**

**E. Equipment Use**

1. Equipment Return

e. Nothing in Section E. shall be interpreted to preclude Motor Carrier from receiving compensation when Provider directs Equipment to be returned to a satellite location. Compensation for services rendered in these circumstances is outside the scope of this Agreement. [Added 02/08/16]

**DECISION:** The panel unanimously finds the decision in favor of the Equipment Provider.

**CASE REVIEWED AND DECIDED BY:**

DAVE HENSAL  
Motor Carrier Panel Member

LEONARD IMPERIAL  
Ocean Carrier Panel Member



## **DISCUSSION:**

The panel carefully reviewed all documents and information provided by the parties. Based upon the supporting documents and evidence submitted, the Motor Carrier panel member found in favor of the Motor Carrier stating that based upon Section E.1.b. of the UIIA, the Motor Carrier did not receive notification of the off-hire new location from the Equipment Provider prior to the 16:00 p.m. deadline on the prior business day. Thus, the Motor Carrier is not responsible for the \$00.00 per diem charge.

The Ocean Carrier panel member agreed stating that based on the available information it appears that the proper notification process was not followed by the Equipment Provider, and the per diem charge for this timeframe should be waived.

Note: The arbitration panel was only requested to review the dispute under this claim related to the responsibility for the per diem charges. The issue related to compensation for services rendered is outside the scope of the UIIA in accordance with Section E.1.e. that clearly states, "Nothing in Section E. shall be interpreted to preclude Motor Carrier from receiving compensation when Provider directs Equipment to be returned to a satellite location. Compensation for services rendered in these circumstances is outside the scope of this Agreement."

## **UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:**

**The panel relied upon the following provision from the UIIA (May 1, 2020) to make its decision:**

### **Section E. Equipment Use**

#### **Section E.1. Equipment Return, Items E.1.b and E.1.e.**

- b.** Motor Carrier shall return the Equipment to the physical location at which the Equipment was received unless the Provider directs the Equipment to be returned to a satellite location(s): 1) as governed by a written bilateral equipment interchange agreement between the Parties or 2) as specified in a notification from the Provider to Motor Carrier via internet posting or e-mail to return the Equipment to a Provider-designated satellite location, listed in IANA's Equipment Return Location Directory (ERLD). Satellite location(s) are facilities which are within the same local commercial territory and support operations of the Provider for the location from which the Equipment was originally received. Whenever a return location is changed, Provider must notify the Motor Carrier by e-mail by 16:00 p.m. local time the business day prior to the change becoming effective. Motor Carrier must furnish the Provider with e-mail addresses to be used for Motor Carrier notification when return locations are changed. **[Revised 02/08/16]**
  
- e.** Nothing in Section E. shall be interpreted to preclude Motor Carrier from receiving compensation when Provider directs Equipment to be returned to a satellite location. Compensation for services rendered in these circumstances is outside the scope of this Agreement. **[Added 02/08/16]**

**DECISION:**

The panel unanimously finds in favor of the Motor Carrier as to the per diem charges on the basis that the Motor Carrier did not receive notification of the off-hire new location from the Equipment Provider prior to the established timeline set forth in Section E.1.b. of the UIIA Agreement. The Motor Carrier is not responsible for the \$00.00 per diem charge.

**CASE REVIEWED AND DECIDED BY:**

DAVE HENSAL  
Motor Carrier Panel Member

LEO IMPERIAL  
Ocean Carrier Panel Member