

**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: **20210423-26-XXXF-PD**

Date of Decision: 08/09/2021

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICES:

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	DT0263645*	SEGU5317954	03/07/2021	USJAX/USJAX	11/23/20	02/25/21	03/07/2021	03/27/21	04/21/21	04/23/2021
2	DT0263642	TCNU1977827	03/07/2021	USJAX/USJAX	12/01/20	02/25/21	03/07/2021	03/27/21	04/21/21	
3	DT0263647	YMMU1213081	03/07/2021	USJAX/USJAX	01/07/21	02/25/21	03/07/2021	03/27/21	04/21/21	

*Invoice 1: Only one container move under dispute. (Container SEGU5317954)

MOTOR CARRIER'S DISPUTE

In accordance with Exhibit D of the UIIA, the Motor Carrier is submitting the disputed charges for arbitration. The basis of the Motor Carrier's claim is that they believe the charges billed by the Equipment Provider are extremely excessive. The Motor Carrier disputed the charges with the Equipment Provider asking for an invoice reduction, due to an issue they've had with a terminated dispatcher where they took their trucks with the Equipment Provider's containers on them when they left the Motor Carrier's company. Sometime in February, the container showed up in the yard of one of the Motor Carrier's agents and the Motor Carrier advised the agent to ingate the containers immediately. The Motevanor Carrier disputed the charges with the Equipment Provider and under the circumstances requested a reduction in the charges. Unfortunately, the parties were unable to reach a compromise related to the disputed charges. Consequently, the Motor Carrier is asking the binding arbitration panel to review the evidence presented in the case and reduce the excessive charges billed even if the panel finds the Motor Carrier at fault.

EQUIPMENT PROVIDER'S RESPONSE

The Equipment Provider did not respond to the claim but did respond to the Motor Carrier's initial request for a reduction in the invoice amounts, stating that their per diem team has no authority to waive or discount the charges. The Equipment Provider also stated that according to the UIIA, the trucker needs to provide

documentation supporting their dispute of the per diem invoices. The Motor Carrier was requested by the EP to provide sufficient documentation supporting its dispute of the charges and asked for the Motor Carrier to provide them with sufficient backup documentation or suggested that the Motor Carrier have its customer contact the EP sales representative for assistance.

DISCUSSION

After careful review of all documents and evidence submitted by the parties, the two modal members that originally reviewed the claim were unable to reach a consensus in the case. The Ocean Carrier panel member indicated that it is the Motor Carrier’s responsibility to return the equipment once interchanged and that the notification of outstanding interchanged equipment required under Section E.1.f. states it is provided as information and does not relieve the parties of their respective obligations under the UIIA. Consequently, the Ocean Carrier panel member believes the invoice is valid and the Motor Carrier should be responsible for the full amount of the charges. The Motor Carrier panel member noted that while the monthly outstanding interchanged equipment notification does not relieve the Motor Carrier of its interchange privileges, the requirement was implemented as a means to ensure equipment is returned in a timely manner and avoid excessive per diem bills. The Motor Carrier panel member believes the Motor Carrier’s financial responsibility in this case should be limited to what would have been exposed had the EP provided the required monthly update of outstanding interchanged equipment in accordance with Section E.1.f.

In accordance with Exhibit D, Item D.3. of the UIIA, when the two modal arbitration panel members are unable to reach a consensus on the case decision, the claim is forwarded to the senior arbitration panel to make the final determination in the case. Upon initial review of the case, the senior arbitration panel first noted that based on the circumstances that the two parties involved in this claim should have been able to work together towards a reasonable resolution in this matter without having to revert to submitting the claim for arbitration. Unfortunately, since the parties were unable to do so, the senior panel considered the following factors before rendering its decision in this case.

The senior panel members agreed that both parties shared a portion of fault in the circumstances that led to this dispute. If the Equipment Provider had furnished the notification of outstanding interchanged equipment as required under Section E.1.f., it may have expedited the Motor Carrier becoming aware of the missing equipment sooner and the equipment being returned earlier. The Motor Carrier should have had a better internal process to identify the containers as missing, which would have allowed them to notify the Equipment Provider sooner and report the units as being stolen to avoid the large per diem charges that were incurred. Based on the circumstances surrounding this case, the senior arbitration panel determined that the Motor Carrier should be held responsible for \$00.00 of the total \$00.00 charges billed by the Equipment Provider. The below shows the calculation of how the senior arbitration determined the Motor Carrier’s responsibility in this case and takes into consideration the free time provided, limits the per diem responsibility to thirty (30) days plus an additional fifteen (15) days of per diem at the rate of \$00 a day per unit for the Motor Carrier not notifying the Equipment Provider sooner of the missing units:

DRP Case : 20210423-26-EDFF-PD			
Invoice 1	Days	Rate	Total
SEGU5317954	5 days	\$0.00	\$0.00
(10 days free)	5 days	\$0.00	\$0.00
	10 days	\$0.00	\$0.00
(Addl Per Diem Charges)	15 days	\$0.00	\$0.00
Total Owed	45 days		\$00.00

Invoice 2	Days	Rate	Total
TCNU1977827	20 days	\$0.00	\$00.00
(10 days free)			
(Addl. Per Diem Charges)	15 days	\$0.00	\$00.00

Total Owed 35 days \$000.00

Invoice 3	Days	Rate	Total
YMMU1213081	5 days	\$0	\$0.00
(4 working days free)	5 days	\$0	\$0.00
	16 days	\$0	\$0.00
(Addl Per Diem Charges)	15 days	\$0	\$0.00

Total Owed 41 days \$00.00

Total MC Responsibility \$00.00

It was the consensus of the senior arbitration panel that the above is a fair and equitable way to resolve the dispute for both parties based on the supporting documentation presented and the specific circumstances surrounding the case.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The senior arbitration panel relied upon the following provision to make its decision:

Section E.1. Equipment Return, Item E.1.f.

Provider will notify the Motor Carrier electronically, at least once a month, of any outstanding Equipment that is shown on the Provider’s books as being interchanged under the Motor Carrier’s SCAC. Notice will be provided in a data file format and include equipment identification number and date of Interchange. Notice is provided for information only; errors or omissions in the content do not relieve the Parties of their respective Interchange obligations.

Exhibit D – Binding Arbitration Guidelines, Item D.10.

The arbitration panel will have 45 days from the date the information and arguments submitted by the Parties are sent by IANA to render a written decision indicating the basis for its conclusions. Arbitrators have broad discretion, and their findings will address the validity of the claims and the Party responsible for payment or satisfaction thereof. The determinations are to be based solely on the specific facts and circumstances associated with the claim, the documentation provided by the Parties, the rules in the UIIA and the rules and charges in the Provider’s Addendum.

DECISION: The senior arbitration panel unanimously renders a split decision in this case with the Motor Carrier being responsible for \$00.00 of the total \$00.00 charges billed by the Equipment Provider.

Case Initially Reviewed by Modal Arbitration Panel

Ben Banks, Motor Carrier Panel Member

Tom Barattini, Ocean Carrier Panel Member

Case Reviewed and Decided by the Senior Arbitration Panel

Kevin Lhotak, Senior Motor Carrier Panel Member

Al Smeraldo, Senior Ocean Carrier Panel Member

Bill Traub, Senior Rail Carrier Panel Member

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

In the Dispute Between)	
)	
UIIA MC,)	Case Number: 20210426-2-XXXX-PD
)	
Appellant, and)	
)	
UIIA EP,)	Date of Decision: 10/14/2021
)	
Respondent .)	

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICES:

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	5257745931	SUDU8195530	04/12/21		APM/APM	01/04/21	03/11/21	04/12/21	04/21/21	04/22/21	04/26/21

MOTOR CARRIER'S DISPUTE

The Motor Carrier's basis of dispute is Section E.1.f. of the UIIA. The Motor Carrier indicated that they inadvertently listed the reefer container in their internal system as being returned to the port, but found that the container was discovered and returned 55 days later. The Motor Carrier disputed the per diem invoice stating that in accordance with Section E.1.f of the UIIA, the Provider will notify the Motor Carrier electronically, at least once a month, of any outstanding Equipment that is shown on the Provider's books as being interchanged under the Motor Carrier's SCAC. The Motor Carrier stated that they were not notified of any outstanding equipment, and therefore, they were unable to catch the error. The Motor Carrier believes that because the Equipment Provider did not follow proper procedures of notifying their company of the outstanding equipment, that they should not be held liable for the invoice amount.

EQUIPMENT PROVIDER'S RESPONSE

The Equipment Provider did not respond to the claim but did respond to the Motor Carrier's initial dispute stating per their system records, the booking was merchant haulage and the responsible party for detention is the Motor Carrier who outgated the container from the terminal and the same has been billed. Therefore, the Equipment Provider feels that the invoice is valid and should stand.

DISCUSSION

After careful review of all documents and evidence submitted by the parties, the two modal members that originally reviewed the claim were unable to reach a consensus in the case. The Motor Carrier panel member found in favor of the Equipment Provider but for a reduced amount covering thirty days based on the fact that the Equipment Provider did not provide evidence that the monthly notification of outstanding interchanged equipment was provided to the Motor Carrier in

accordance with Section E.1.f. of the UIIA. The Ocean Carrier panel member found in favor of the Equipment Provider for the full amount of the invoice since Section E.1.f. states that the notification of outstanding interchanged equipment is provided as information only and does not relieve the Motor Carrier of the charges incurred. In accordance with Exhibit D, Item D.3. of the UIIA, when the two modal arbitration panel members are unable to reach a consensus on the case decision, the claim is forwarded to the senior arbitration panel to make the final determination in the case.

Upon review of the case, including all documents and evidence received, the senior arbitration panel made the following observations:

- Under the circumstances, the parties involved in this claim should have undertaken more effort to work together towards a reasonable resolution in this matter prior to the submission of the claim for arbitration.
- The senior panel members agreed that based on the evidence presented, the Motor Carrier did not appear to make any effort to request consideration from the Equipment Provider regarding the large per diem billing.
- In addition, the Motor Carrier misinterpreted the intent of the language in Section E.1.f. The language clearly states that this notification is provided by the Equipment Provider as information only and that errors or omissions in the content do not relieve the Parties of their respective interchange obligations. Consequently, the Motor Carrier was still obligated to return the equipment in a timely manner regardless of whether the notification was provided by the Equipment Provider.
- The senior panel also noted that had the Equipment Provider provided the notification under Section E.1.f. to the Motor Carrier, it would most likely have prompted the return of the equipment sooner resulting in a smaller per diem bill and better equipment utilization for the Equipment Provider.

For the reasons stated above and based on the evidence presented in the case, the senior panel finds in favor of the Equipment Provider for a reduced amount of the disputed invoice. The Motor Carrier will be responsible for eighty percent (80%) of the total invoice in the amount of \$____. In conclusion, the senior panel noted that in the future, the Motor Carrier should ensure it clearly understands the intent of the language in the UIIA before submitting an arbitration claim and that both parties should make every effort to work together to reach a reasonable resolution to the dispute prior to submitting this type of case for arbitration.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The senior arbitration panel relied upon the following provision to make its decision:

Section E.1. Equipment Return, Item E.1.f.

Provider will notify the Motor Carrier electronically, at least once a month, of any outstanding Equipment that is shown on the Provider's books as being interchanged under the Motor Carrier's SCAC. Notice will be provided in a data file format and include equipment identification number and date of Interchange. Notice is provided for information only; errors or omissions in the content do not relieve the Parties of their respective Interchange obligations.

DECISION: The senior arbitration panel unanimously renders its decision in favor of the Equipment Provider for a reduced amount of the total charges billed. The Motor Carrier is responsible for \$____ of the total \$____ charges billed by the Equipment Provider.

Case Initially Reviewed by Modal Arbitration Panel

Peter Schneider, Motor Carrier Panel Member

Jim Michalski, Ocean Carrier Panel Member

Case Reviewed and Decided by the Senior Arbitration Panel

Kevin Lhotak, Senior Motor Carrier Panel Member

Leo Imperial, Senior Ocean Carrier Panel Member

Mike Pagel, Senior Rail Carrier Panel Member

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

In the Dispute Between)	
)	
UIIA MC,)	Case Number: 20210429-1-XXE-PD
)	
Appellant, and)	
)	
UIIA EP,)	Date of Decision: 12/13/2021
)	
Respondent.)	

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICES:

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	91556804	TRKU2053972	03/23/21	NYC/APM Port Elizabeth	02/11/20	03/18/21	3/23/21	4/20/21	4/21/21	4/29/21

MOTOR CARRIER'S DISPUTE

The Motor Carrier basis of dispute is related to Section E.1.f. of the UIIA and the fact that they believe the charges being billed by the Equipment Provider are excessive. The Motor Carrier reports that it pulled the unit from NYC on February 11, 2020, and ingated the unit on February 14, 2020. The Motor Carrier also reported that it received an email from the Equipment Provider regarding the status of the unit on October 28, 2020, at which time the Motor Carrier informed the Equipment Provider that the unit was returned and accepted by Columbia Container-Maher Terminals on February 14, 2020. The Motor Carrier stated that the Equipment Provider did advise them that the container was to have been returned to the APM terminals and asked the Motor Carrier to correct the location. However, the Motor Carrier states that after eight months with no notice from the Equipment Provider, they were trying to determine the location of the container, and on February 24, 2021, the Equipment Provider emailed the Motor Carrier again and asked the Motor Carrier to relocate the container to APM Terminals. The Equipment Provider advised the Motor Carrier to go to the Columbia Container yard and call them to assist in obtaining the unit. The container was ingated at the APM Port Elizabeth on March 19, 2021.

Therefore, the Motor Carrier feels that because both parties were in the wrong, they should not be held liable for the full invoice amount billed. The Motor Carrier stated that it is of their understanding that the arbitration panel members have the ability to reduce excessive charges even if they find the Motor Carrier to be at fault.

EQUIPMENT PROVIDER'S RESPONSE

The Equipment Provider responded to the claim stating that all empty returns go to APM Port Elizabeth. The Equipment Provider stated that trucking companies check the APM website and return them to APM or they send an e-mail to the Equipment Provider to check empty return location. The Equipment Provider also

stated that several e-mails had been sent to the trucking company to relocate the container back to the APM port. The Equipment Provider indicated that their system works with APM through their EDI system. When the unit returns to APM, the Equipment Provider's system will automatically bill the per diem invoice to the trucking company based on the return date. Therefore, the Equipment Provider feels that the invoice should stand as billed.

DISCUSSION

After careful review of all documents and evidence submitted by the parties, the two modal members that originally reviewed the claim were unable to reach a consensus in the case. The Ocean Carrier panel member stated that it is the Motor Carrier's responsibility to return the equipment to the physical location at which the equipment was received unless directed to return the unit to a satellite location as governed by Section E.1.b. of the UIIA. The Motor Carrier did not initially return the unit to the originating location or to the satellite location as directed by the Equipment Provider. However, there was also no evidence that the Equipment Provider notified the Motor Carrier of outstanding interchanged equipment on a monthly basis as required under Section E.1.f. of the UIIA. The Ocean Carrier panel member noted that neither the delivery to the incorrect location nor the failure to notify the Motor Carrier of the outstanding interchanged equipment relieves either party of its obligations under the UIIA. The Ocean Carrier panel member found that both parties shared a portion of the fault in this claim and should have been able to work together to reach a reasonable solution versus submitting for arbitration. The Ocean Carrier panel member indicated that ultimately the Motor Carrier is responsible for the per diem, but due that both parties' lack of action resulted in the large per diem billing, a reasonable resolution would be for the Motor Carrier to be responsible for per diem charges from the date of October 28, 2020, which is when the Equipment Provider notified the Motor Carrier that the equipment was missing through the date the equipment was returned on March 18, 2021. The Ocean Carrier panel found in favor of the Equipment Provider for a portion of the invoice and that the Motor Carrier should be responsible for 141 days of per diem for a total of \$0.00.

The Motor Carrier Panel member believes that it is not the Motor Carrier's fault should they return equipment to incorrect facility and that facility in turns accepts the equipment on behalf of the Equipment Provider. The Motor Carrier panel member also noted that the Equipment Provider did not follow Section E.1.f. by providing the Motor Carrier notification of outstanding interchanged equipment on a monthly basis, so the Motor Carrier had no reason to believe that the ingate of the unit was not acceptable. The Motor Carrier panel member did believe that both parties could have communicated better to avoid the large per diem billing. Consequently, the Motor Carrier panel member believes that per diem charges should have ceased as of April 2020, which would have been 66 days of per diem that equates to \$0.00. The Motor Carrier panel member found that the Motor Carrier should be responsible for only half of the 66 days of per diem charges for a total of \$0.00.

In accordance with Exhibit D, Item D.3. of the UIIA, when the two modal arbitration panel members are unable to reach a consensus on the case decision, the claim is forwarded to the senior arbitration panel to make the final determination in the case. Upon initial review of the case, the senior arbitration panel first noted that based on the circumstances that the two parties involved in this claim should have been able to work together towards a reasonable resolution in this matter without having to revert to submitting the claim for arbitration. Unfortunately, since the parties were unable to do so, the senior panel considered the following factors before rendering its decision in this case.

The senior arbitration panel concurred with the Ocean Panel member's findings in this case and thought that based on the circumstances that although the Equipment Provider did not provide the thirty-day notice of outstanding interchanged equipment that it does not relieve the Motor Carrier's of its obligation to return the equipment in accordance with Section E.1.b. and should it not do so, the Motor Carrier should be responsible for per diem that results from the lack of returning the equipment. However, the Equipment Provider should also be advised that if it had provided the Motor Carrier with the outstanding interchanged equipment notification required under Section E.1.f. that it may have avoided the large per diem billing and having the equipment returned to the correct location sooner. Consequently, the senior arbitration panel concurred with the Ocean Panel member's initial findings that the Motor Carrier should be responsible for per diem charges from the date of October 28, 2020, when the Equipment Provider notified them that the equipment was still missing until the date it was returned on March 18, 2021, for a total of 141 days. The calculation of the per diem for these 141 days is shown on the following page:

Days	Rate	Total
4 days	\$0.00	\$0.00
4 days	\$0.00	\$0.00
133 days	\$0.00	\$0.00
Total Per Diem Owed		\$0.00

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The senior arbitration panel relied upon the following provision to make its decision:

Section E.1. Equipment Return, Item E.1.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.

Section E.1. Equipment Return, Item E.1.f.

Provider will notify the Motor Carrier electronically, at least once a month, of any outstanding Equipment that is shown on the Provider's books as being interchanged under the Motor Carrier's SCAC. Notice will be provided in a data file format and include equipment identification number and date of Interchange. Notice is provided for information only; errors or omissions in the content do not relieve the Parties of their respective Interchange obligations.

DECISION

The senior arbitration unanimously finds that the Motor Carrier should be responsible for a portion of the original per diem bill (141 days – October 28, 2020 – March 18, 2021) for a total of \$0.00.

CASE REVIEWED AND DECIDED BY:

Case Initially Reviewed by Modal Arbitration Panel

Jim Michalski, Modal Ocean Carrier Panel Member
Peter Schneider, Modal Motor Carrier Panel Member

Case Reviewed and Decided by the Senior Arbitration Panel

Kevin Lhotak, Senior Motor Carrier Panel Member
Mike Pagel, Senior Rail Carrier Panel Member
Al Smeraldo, Senior Ocean Carrier Panel Member