

UNIFORM INTERMODAL INTERCHANGE AGREEMENT

DISPUTE RESOLUTION PANEL

In the Dispute Between)	
)	Case: 20090831-1-XXXH-MR-OTH
UIIA Motor Carrier)	
Appellant, and)	DECISION
)	November 11, 2009
UIIA Equipment Provider)	
Respondent.)	

FACTS: The MC disputed invoice 855097074A dated 7-24-09 issued by Flexi-Van on behalf of the EP. The invoice contained charges for two mud flaps, flat repair to the LIF tire, and right side sand shoe and axle. The loaded container was interchanged from BNSF in Elwood, IL on 6-09-09 at 11:57. The outbound inspection was a photographic inspection. A cut could be observed on the left mud flap. The unit was returned empty to Integrated Industries Corporation on 6-09-09 at 15:06 with a notation on the inbound TIR of "LIF tire flat, RIR tire worn, ROR tire skid, LS mud flap cut, RS mud flap cut, RS sand shoe bent, lower cross brace bent".

BASIS OF CLAIM: MC asserts that the damage to the mud flaps and sand shoe are not corroborated by the outbound photographs.

DISCUSSION: The outbound photographs show a cut to the left mud flap. Existing damage on the sand shoe or right mud flap cannot be observed on the photographs. However Exhibit B to the UIIA establishes that, unless a result of damage, mud flaps, sand shoes, and dolly axle are the responsibility of the EP.

There is no evidence to indicate that the MC damaged the mud flaps, sand shoes, or dolly axle.

DECISION: Based on Exhibit B and the lack of evidence the MC damaged the mud flaps, sand shoe, or dolly axle, the panel unanimously finds in favor of the MC on these items. The MC did not dispute and is responsible for paying for the flat tire included on this invoice.

EP shall be responsible for the \$50 administrative fee.

DAVID MANNING
Motor Carrier Member

PATRICK VALENTINE
Water Carrier Member

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

DISPUTE RESOLUTION PANEL REVIEW AND DECISION

In the Dispute Between)
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UIIA Motor Carrier) Case Number: **20100122-1-XXXT-MR-OTH**
Appellant, and)
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UIIA Equipment Provider) **Date of Decision:** April 5, 2010
Respondent)

FACTS: Motor Carrier (MC) out-gated the unit at the Union Pacific Railroad, Global 1 in Chicago, IL on 05/17/2009 at 16:32. A call was placed by the MC to the Emergency Breakdown Service (EBS) later that evening stating that the unit had no working lights. EBS invoiced MC on behalf of the Equipment Provider (EP) for electrical work to the unit APLZ 197210.

Invoice 157052 in the amount of \$785.00 indicated that the unit needed to be rewired. The outgate EIR from Union Pacific Railroad on 05/17/09 stated "DAMAGE WILL NOT BE REPORTED ON INGATE OR OUTGATE RECEIPTS. DEFECTS WILL BE CAPTURED ON RECORDED IMAGES", the recorded images were provided for review.

ISSUE: MC asserts that the road service vendor found the short on the chassis and when he plugged it in, the truck shorted out and had to be rewired. EP asserts that when the road service vendor arrived on site they found wiring pulled apart and screws were missing. Vendor visually cited the driver was trying to work on the chassis and was the cause of the electrical rewiring repairs being charged.

DECISION: MC complied with the requirements in the EP addenda by calling EBS for a road repair. There was no evidence that the MC was responsible for attempting to make the repair himself other than the assertion of the EP that the roadside vendor found upon his arrival to the repair site that the wires were pulled apart and there were missing screws. There was no statement from the MC that he attempted to repair the chassis himself. Further, there was no evidence that the rewiring caused by a short was required as a result of the MC's actions.

Exhibit B of the UIIA provides that repairs to lights are the responsibility of the EP unless damage was caused by the MC. Because there was no evidence that the MC attempted to make repairs and no direct statement from EBS that the detaching of the wires and screws caused the OOS electrical system repair, the panel unanimously finds in favor of the MC. EP shall not be entitled to recover the repairs charges from MC. EP shall bear the cost of the DRP administrative filing fee.

Case Reviewed and Decided by:

Dave Manning, Motor Carrier Member

Barry Michaels, Rail Carrier Member

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

DISPUTE RESOLUTION PANEL REVIEW AND DECISION

In the Dispute Between)
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UIIA Motor Carrier) Case Number: **20140416-1-XXS-MR-OTH**
Appellant, and)
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UIIA Equipment Provider) Date of Decision: 07/16/2014
Respondent)

UNDISPUTED FACTS: The Equipment Provider (EP) sent the Motor Carrier (MC) an invoice for maintenance and repair on 03/27/2014 in the amount of \$00.00. Invoice number NJ-03-14-306-C states the following: "This reefer container was returned damaged as noted & as repaired as shown." The EP supplied the MC a copy of the repair invoice that was sent to the EP by the repair vendor Container Service of NJ (CSNJ) that indicated the following repairs: "Section L/S Front Roof Panel 2X1; Section L/S Center Roof Panel 2x2; Section R/S Center Roof Panel 6x2; Section R/S Center Roof Panel 6x2; Section L/S Rear Roof Panel 6x6; Section L/S Rear Roof Panel 4x2."

The out-gate EIR shows that the sealed unit was picked up at Maher Terminals on 02/10/2014 with the following damage noted: "Right Side Panel Dent Usable, Left Side Panel Dent Usable, and Rear Top Header Dent Usable." The in-gate EIR shows that the MC returned the empty container to the Container Services of New Jersey, Inc.(CSNJ) on 02/12/2014 with the following damage noted: "Section L/S Front Roof Panel 2X1; Section L/S Center Roof Panel 2x2; Section R/S Center Roof Panel 6x2; Section R/S Rear Roof Panel 4x2; Section R/S Rear Roof Panel 6x6; Section L/S Rear Roof Panel 4x2."

Images have been provided for review however, the images are not dated or time stamped.

ISSUE: The MC disputed the invoice stating that because the container was a reefer container the damage to the roof could not have been seen even if the container was opened from the inside for the driver to request that the condition be noted on the out-gate EIR. Maher Terminals facility has no way for the MC to check the roof of the units prior to out-gate. The MC is basing their dispute on section D.2.a and Exhibit C of the UIIA.

The EP responded to the MC's dispute stating that the billable damage was not noted on out-gate EIR, but was noted on the in-gate. Per Exhibit C of the UIIA, noted damage is covered under the "Cut or Torn" description.

DISCUSSION: The panel reviewed all documents and evidence submitted by the parties. The panel finds in favor of the EP. When the equipment was out-gated the EIR did not note the damage billed and subsequently invoiced upon in-gate. At the time when the equipment was in-gated the damage was reported and the interchange receipt noting this damage was signed by the MC's driver. The MC's driver had the opportunity to dispute the damage at the time of in-gate but did not do so. Provision D.3.d.1) and Exhibit C of the UIIA establishes the responsibility of MC for damages to the equipment during the interchange period. In addition, the EP's invoice satisfy the requirements in provision E.3.a.1) of the UIIA.

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:

D. Equipment Interchange....3 Equipment Condition

- a. Warranty: **WHILE PARTIES MAKE NO EXPRESS OR IMPLIED WARRANTY AS TO THE FITNESS OF THE EQUIPMENT, THEY RECOGNIZE AND AFFIRM THEIR RESPONSIBILITIES UNDER THE FEDERAL MOTOR CARRIER SAFETY REGULATIONS.**

1) Motor Carriers will conduct a pre-trip inspection prior to departing with interchanged Equipment that will include those items set forth in Exhibit A to this Agreement. **[Revised 01/17/05]**

* * * *

- b. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.

1) The responsibility for the repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement. **[Revised 07/25/07]**

**Exhibit C to UIIA
(Added to UIIA on 07/25/07, Last Revised 09/01/09)**

Motor Carrier Responsibility During the Interchange Period

Cut or Torn (through the thickness of metal)

Metal door, gate, sheet, post, crossmember, brace or support
DOT Under Ride Guard

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 AGS gate transactions such documentation must include images depicting the condition of the Equipment at the time the Motor Carrier to be charged both accepted and returned the Equipment. **[Revised 09/01/09]**

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

CASE REVIEWED AND DECIDED BY:

DAVE MANNING
Motor Carrier Member

AL SMERALDO
Ocean Carrier Member

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

DISPUTE RESOLUTION PANEL REVIEW AND DECISION

In the Dispute Between)
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)
 UIIA Motor Carrier) Case Number: **20141209-2-XXXC-MR-OTH**
 Appellant, and)
)
 UIIA Equipment Provider) Date: 07/17/2015
 Respondent)

UNDISPUTED FACTS: The Equipment Provider (EP) sent the Motor Carrier (MC) a maintenance and repair invoice no. MR 1412000414 001, dated 12/02/2014, in the amount of \$00.00. The invoice shows the following repair: "Damage: Floor Description: Section, Cut/Broken, Flooring, 20. The out-gate EIR shows that the MC out-gated a sealed unit from the Maher Terminals in NJ on 11/17/14 with the following damage noted: Right side panel bent – usable, Left side panel bent – usable." The in-gate EIR from Columbia Container, dated 11/18/14 listed the following: "Major Repair: 10- Bottom right/flooring, plywood plank / broken/cut. 20-Bottom whole/flooring, plywood plank/broken/cut. 30-Understructure whole/cross member assembly/broken/cut."

Pictures have been provided by the MC for review, however neither Maher Terminals nor Columbia Intermodal are AGS gate facilities.

ISSUE: The MC's dispute is that the repairs to the floor are a result of normal wear and tear and not damage. The MC bases its dispute on Section D.3.d (1) of the UIIA.

The EP's position is that this was not a case of normal wear and tear, therefore, the MC is responsible for the invoice. The EP's position is supported by Exhibit B of the UIIA.

DISCUSSION: The panel reviewed all documents and evidence submitted by the parties. The two modal panel members were unable to come to a consensus as to what the evidence supported. Therefore, the third panel member was brought in under Exhibit D to the UIIA. The third panel member finds in favor of the MC. The language of Exhibit B of the UIIA establishes the MC's responsibility for floor damage which occurs during the MC's possession of the equipment if the repair to the floor is a result of damage and not normal wear and tear. At the time of out-gate the container was sealed and the MC had no way to inspect the inside of the container. Due to the MC's inability to conduct a proper inspection of the inside of the container to determine if the damage was pre-existing and the lack of sufficient factual documentation to support the EP's determination that the MC is responsible for the repair, the EP failed to satisfy the requirements under Section E.3.a.(1).

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (October 1, 2014) to make its decision:

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 AGS gate transactions such documentation must include images depicting the condition of the Equipment at the time the Motor Carrier to be charged both accepted and returned the Equipment. **[Revised 09/01/09]**

D. Equipment Interchange....3 Equipment Condition

d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.

1) The responsibility for the repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement. **[Revised 07/25/07]**

**Exhibit B to UIIA
Equipment Owners Responsibility
(added to UIIA on 07/25/07, Last Revised 4/20/09)**

Repairs made to any item listed in Exhibit B that were a result of damage and not normal Wear and Tear, are the responsibility of the Motor Carrier.

Floor or decking

EXHIBIT D TO THE UIIA

3. A three-member arbitration panel will be appointed by IANA to handle disputed invoices submitted for arbitration. The panel will consist of one IANA member from each mode, i.e. a Motor Carrier, Water Carrier and Railroad. However, the decision will be rendered by the two arbitrators representing the modes involved in the disputed invoice(s). The third appointed arbitrator from the mode not involved in the transaction will act as an alternate, and will render a decision only in the event the arbitrators from the involved modes cannot agree on a resolution of the dispute.

DECISION: A majority of the panel finds in favor of the MC.

CASE REVIEWED AND DECIDED BY:

CHAD M. PETERSON
Rail Carrier Member

FRED HUENNEKENS
Motor Carrier Member

ROBERT CANNIZZARO
Ocean Carrier Member

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

DISPUTE RESOLUTION PANEL REVIEW AND DECISION

In the Dispute Between)
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UIIA Motor Carrier)
Appellant, and)
)
UIIA Equipment Provider)
Respondent)

Case Number: **20150702-5-XXXC-MR-OTH-D8**

Date of Decision: 09/01/2015

UNDISPUTED FACTS: The Equipment Provider (EP) sent the Motor Carrier (MC) a Maintenance & Repair invoice no. MR 1506000665 001, dated 06/03/2015, in the amount of \$00.00. The invoice shows the following repairs: Floor, Description: Section, Cut/Broken, Flooring, 20. The out-gate EIR shows that the sealed unit was out-gated on 05/06/2015 with the following damage noted: Right side panel dent – usable, Left bottom rail dent – usable, Left side panel dent - usable. The in-gate EIR dated 05/08/2015 noted the following: Major Repair: 10-Bottom right/flooring, plywood plank/broken/cut, 20-Bottom right/flooring, plywood plank/broken/cut.

ISSUE: The MC’s dispute is that the repairs to the floor are a result of normal wear and tear and not damage. The MC argues the fact that the unit was a loaded, sealed shipment, with no way to inspect the condition of the floor, or note any potential pre-existing damage on the outbound EIR. The MC bases its dispute on Section D.3.d (1), and Exhibits A, B & C of the UIIA.

DECISION: IANA Staff reviewed all documents and evidence submitted by the Moving Party and it has been determined that this issue has already been addressed and resolved in a prior arbitration decision that was rendered by the arbitration panel on case 20141209-2-XXXC-MR-OTH. Therefore, in accordance with Exhibit D, Item 8 of the UIIA, if it is determined that the submitted claim has already been addressed and resolved in a prior arbitration decision, then both the Moving and Responding Parties will be provided with the precedent set forth in the former decision and advised that this decision will apply to the submitted claim.

Therefore, both the Moving and Responding Parties were provided with the prior case decision and were advised that the decision applied to the current claim submitted by the Moving Party. Both parties were provided 10 days to provide additional information as to why the precedent decision did not apply to this claim or was in conflict with the Agreement. There were no comments made by the Parties and therefore, the former proceeding will apply to the current claim.

Based on the prior decision case 20141209-2-XXXC-MR-OTH & its applicability to this current claim, the language of Exhibit B of the UIIA establishes the MC’s responsibility for floor damage which occurs during the MC’s possession of the equipment if the repair to the floor is a result of damage and not normal wear and tear. At the time of out-gate the container was sealed and the MC had no way to inspect the inside of the container. Due to the MC’s inability to conduct a proper inspection of the inside of the container to determine if the damage was pre-existing and the lack of sufficient factual documentation to support the EP’s determination that the MC is responsible for the repair, the EP failed to satisfy the requirements under Section E.3.a.(1).

PROVISION PRIOR & CURRENT CLAIM DECISION BASED ON:

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 AGS gate transactions such documentation must include images depicting the condition of the Equipment at the time the Motor Carrier to be charged both accepted and returned the Equipment. **[Revised 09/01/09]**

D. Equipment Interchange....3 Equipment Condition

d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.

1) The responsibility for the repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement. **[Revised 07/25/07]**

**Exhibit B to UIIA
Equipment Owners Responsibility
(added to UIIA on 07/25/07, Last Revised 4/20/09)**

Repairs made to any item listed in Exhibit B that were a result of damage and not normal Wear and Tear, are the responsibility of the Motor Carrier.

Floor or decking

DECISION: Found in favor of the MC.

Based on Exhibit D, Item 8 previous case decision 20141209-2-XXXC-MR-OTH

CASE – 20160307-1-XXXF-MR-OTH Moving Party: NBT Transport, Inc./Responding Party: EP

Below is a summary of the invoices being disputed under this arbitration claim:

Inv. #	Invoice	Inv. Date	Facility	Outgated	Ingated
1	DS-NBTF297331	03/04/16	SFCT-Miami/SFCT-Miami	03/01/2016	03/02/2016

MOTOR CARRIER’S DISPUTE

The Motor Carrier’s basis of dispute is D.2.a of the UIIA that states: “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.”

The Motor Carrier believes that the Equipment Provider is billing for pre-existing damage. The Motor Carrier also believes that because the ingate interchange receipt for the container identified the damage as “OLD” and noted that if their driver sees that damage is marked “OLD” on the EIR, the driver will not ask for a secondary inspection or make any notations because the damage is identified as “OLD”.

DISCUSSION IANA Staff reviewed all documents and evidence submitted by the Moving Party and it has been determined that this issue has already been addressed and resolved in a prior arbitration decision that was rendered by the arbitration panel on case 20150803-9-XXXT-MR-OTH. Therefore, in accordance with Exhibit D, Item 8 of the UIIA, if it is determined that the submitted claim has already been addressed and resolved in a prior arbitration decision, then both the Moving and Responding Parties will be provided with the precedent set forth in the former decision and advised that this decision will apply to the submitted claim.

Therefore, both the Moving and Responding Parties were provided with the prior case decision and were advised that the decision applied to the current claim submitted by the Moving Party. Both parties were provided 10 days to provide additional information as to why the precedent decision did not apply to this claim or was in conflict with the Agreement. There were no comments made by the Parties and therefore, the former proceeding will apply to the current claim.

Based on the prior decision case 20150803-9-XXXT-MR-OTH & its applicability to this current claim, at the time of outgate the container was under load and no inspection of the floor was done. Therefore, there is no supporting evidence that confirms that the MC is responsible for damages as required in E.3.a.(1) of the UIIA.

PROVISION PRIOR & CURRENT CLAIM DECISION BASED ON:

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 AGS gate transactions such documentation must include images depicting the condition of the Equipment at the time the Motor Carrier to be charged both accepted and returned the Equipment. **[Revised 09/01/09]**

D. Equipment Interchange....3 Equipment Condition

- d. Motor Carrier will return the Equipment to the Provider in the same condition, reasonable Wear and Tear excepted.

1) The responsibility for the repair and/or replacement of equipment items during the Interchange Period are listed in Exhibits B and C of this Agreement. **[Revised 07/25/07]**

**Exhibit B to UIIA
Equipment Owners Responsibility
(added to UIIA on 07/25/07, Last Revised 4/20/09)**

Repairs made to any item listed in Exhibit B that were a result of damage and not normal Wear and Tear, are the responsibility of the Motor Carrier.

Floor or decking

DECISION: Found in favor of the MC.

Based on Exhibit D, Item 8 previous case decision 20150803-9-XXXT-MR-OTH

**10/ 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: **20190723-12-XXE-MR-TRSF**

Date of Decision: 12/10/2019

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICE:

Invoice	Invoice #	Equipment #	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	3PF5183	LSFZ133503	06/18/19	S. Kearny/S. Kearny	3/14/19	3/14/19	6/18/19	6/19/19	7/17/19	7/23/19

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier's basis of dispute is Section E.3.a.(1), Section E.4.a. and Exhibit C of the UIIA. The Motor Carrier believes that a flat spot on a tire is a result of a mechanical issue, previous bad repair or bad equipment, and not any fault of the driver. The Motor Carrier indicates that with ABS brake systems, no slid flats should occur unless the ABS system is bad, which would be the responsibility of the Equipment Provider under Exhibit B of the UIIA. In addition, the Motor Carrier states that this is a bud wheel and one tire cannot be slid flat. The Motor Carrier also stated that no tread depth was provided to show how much tread had been removed and no photos were provided to them of the condition of the tire at outgate to compare with the ingate photo taken by the Equipment Provider. Consequently, the Motor Carrier feels there is not sufficient evidence to hold them responsible for this invoice.

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

The Equipment Provider provided comments to the claim stating that the MC interchanged the unit from the CSX Intermodal Terminals Inc. South Kearny location without reporting any defects on the outgate interchange receipt. The ingate portal image on 3/14/19 into South Kearny shows the damage visible by AGS-gate photos to the ROR tire (slid flat). The Equipment Provider agreed that brake component repair is the Equipment Provider's responsibility however, the unit in question had no reported brake issues and no brake issues had been reported by any draymen in the last six months. The ingate photo at the time the unit was returned shows the ABS light not lit, which indicates the system is working properly. When the system is not working, the light would be illuminated.

Regarding the Motor Carrier's argument that a bud wheel cannot be slid flat, the Equipment Provider believes this is not an accurate statement. The Equipment Provider stated that there are many factors that can cause a single slid flat (i.e. unequal tread depths, different tire pressures, etc.). The Equipment Provider indicated that for the unit in question, both tires on the same wheel set were slid flat (RIR and ROR) and both were replaced. The Motor Carrier was only billed for the ROR tire as the photographic evidence of the slid fat at the ingate on the RIR tire was not clear enough to hold the Motor Carrier responsible for this repair. The Equipment Provider also noted that the gate technology used at this facility was photographic evidence at ingate and manual reporting at the outgate. The method of reporting defects does not have to be the same at both points of the interchange. This was previously upheld by a prior arbitration decision (20161117-1-XXXV-MR-TR). In addition, tread depth of a tire has never been a required measurement at the time of interchange.

For the reasons identified above, the Equipment Provider believes the invoice is valid and should stand as billed.

DECISION:

The panel carefully reviewed all documents and evidence submitted by the parties. Based upon the supporting documents and evidence submitted, the Rail Carrier panel member found in favor of the Equipment Provider stating that based upon the evidence submitted it is her assessment that the unit was in good working order at the time of outgate. The IEP presented a reference noting that the unit had a pre-trip inspection 2 days prior to outgate by the carrier indicating that the unit did have some attention to the basic components of the unit. This process would be validated by the drivers required level one inspection with the clerk. The only real documentation that is present is a clean outgate and visible damage at ingate.

The Motor Carrier panel member found in favor of the Motor Carrier noting the IEP's responses to the potential root causes are speculative in nature, with numerous "what if's" that weren't identified and that could have been a result of faulty maintained equipment. In addition, there is no evidence that the driver used his trolley brake to override the ABS system. Such deliberate and negligent action by the driver would have resulted in slid flats to multiple sets of wheels and tires. There is no such photographic evidence that was submitted that indicates that slid flats were present to any other set of tires on this chassis. Because of such reasoning, the tires could have been in this condition and undetectable to the driver during his pre-trip inspection due to slid flat being in direct contact with the ground, as well as the time of day (2:49 am), or a failure within the ABS system.

In addition, in cases where a slid flat tired is identified, it would be prudent and expected, in this panel member's opinion, that the IEP immediately perform a download of the ECU and include that with the invoice as supporting documentation. It is not equitable to find the Motor Carrier at fault exclusively on the EIR documentation provided due to the speculations surrounding the potential causes of a single slid flat, as well as previous concerns raised by Motor Carriers regarding "split gate" operations and the lack of tread depth measurements at both the ingate and outgate despite there being no current language within the UIIA requiring such measurements to be taken.

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 Equipment Provider. It was the consensus of the senior arbitration panel members that the Equipment Provider did in fact properly document and identify the repairs billed. There were no previous indications that there were brake issues and therefore, the senior panel members find that the tire repair bill meets the definition for a slid flat tire in accordance with Exhibit C of the UIIA. Exhibit C states, "Slid Flat Damage to tire and/or Tube – removal of tread or rubber to 2/32

inches of remaining tread depth or less in the affected area(flat spot) while the remaining unaffected tread depth is more than 4/32 inches". The senior panel members agreed that the Equipment Provider complied with providing the documentation and images to support their billing.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (October 1, 2018) to make its decision:

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]**

2) 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 a gate transaction using Recorded Images such documentation must include images depicting the condition of the Equipment at the time of that Interchange. **[Revised 10/01/18]**

4. Tires

a. Repair of Damage to tires during Motor Carrier's possession is the sole responsibility of Motor Carrier, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**

b. Repair of tires unrelated to Damage occurring during Motor Carrier's possession is the sole responsibility of the Provider, based on prevailing reasonable and customary repair costs and equipment use. **[Revised 09/01/09]**

c. Photographic evidence shall be used for tire repair responsibility assignment. Photos of the tire will be produced by the road service provider based upon the stipulated criteria set forth in the Supplement to Exhibit C, Tire Marking and Photo Requirements of the UIIA. **[Added 08/01/18]**

d. A Provider cannot require the Motor Carrier to return the physical carcass of a tire. **[Added 08/01/18]**

Exhibit B to UIIA, Provider Responsibility (added to UIIA on 07/25/07, Last Revised 10/01/18)

Brake adjustments on trailers or chassis (1)

Brake and brake component repairs (2)

Tires and Tubes, renewals, repairs or replacement

A repair made to any item listed in Exhibit B is the responsibility of the Provider unless the repair made is a result of damage that occurred during the Interchange Period.

Exhibit C to UIIA, Motor Carrier Responsibility during the Interchange Period (Added to UIIA on 07/25/07, Last Revised 10/01/18)

Slid Flat Damage to tire and/or tube - removal of tread or rubber to 2/32 inches of remaining tread depth or less in the affected area (flat spot) while the remaining unaffected tread depth is more than 4/32 inches.

EXHIBIT D TO THE UIIA, BINDING ARBITRATION PROCESS GUIDELINES (Added to UIIA on 8/1/08) (Last Revised 09/16/17)

3. A two-member arbitration panel will be appointed by IANA to handle disputed invoices submitted for arbitration. The panel will consist of one IIEC member from each mode involved in the dispute. In the event that the arbitrators from the involved modes cannot agree on a resolution of this dispute, a decision will be rendered by a majority of a senior panel consisting of the longest tenured IIEC member or alternate from each mode, as determined by the Chairperson. **[Revised 09/16/17]**

DECISION: The Senior DRP Panel unanimously finds in favor of the Equipment Provider.

CASE REVIEWED AND DECIDED BY:

LaVERSIA (ELLE) SPENCER
Rail Carrier Modal Panel Member

ROBERT LOYA
Motor Carrier Modal Panel Member

DAVE MANNING
Motor Carrier Senior DRP Panel Member

GORDON GRAHAM
Rail Carrier Senior DRP Panel Member

AL SMERALDO
Ocean Carrier Senior DRP Panel Member