

UNIFORM INTERMODAL INTERCHANGE AGREEMENT

DISPUTE RESOLUTION PANEL

In the Dispute Between)
)
UIIA Motor Carrier) 2009625-1-XXXXP-PD
Appellant, and)
) DECISION
) July 31, 2009
UIIA Equipment Provider)
Respondent.)

FACTS: EP invoiced MC for three per diem invoices ,
NYC...8083X \$00 Moves performed in Jan 2009
NYC...5742X \$00 Moves performed in Sept 2008
NYC...5370X \$00 Moves performed in Sept 2008

MC asserts that they could not reasonably address these invoices since they had not received them in a timely manner

BASIS OF CLAIM: MC asserts that they were informed of the invoices by the EP only after attempting to rectify an unrelated issue between the MC, EP and a mutual customer. MC asserts that EP did not exercise due diligence in presenting the invoice for payment, and that had they done so the issue would have been resolved in a timely manner. MC advises that they had changed their address and billing information, notifying UIIA some 18 months prior to the issuance of the invoices, and that had due diligence been exercised by the EP the correct billing information which was listed with the UIIA would have been accessed and the issue would have been resolved.

DISCUSSION: The MC's appeal rests on the contention that their address change and the lack of follow up by EP on the tendered invoices voids the invoices under the rules of the UIIA. EP counters that they sent the invoices as required and did not receive any returned mail and assumed that the address was still valid. Further they assert that any address changes must be sent to EP.

Section G.14.b of the UIIA governs this case.

“Notices required under this Agreement from Motor Carrier to Provider, or from Provider to Motor Carrier, shall be in writing and sent by confirmed facsimile or by first class mail, postage paid, and properly addressed. Alternatively, such written Notice can

be personally served, sent by registered or certified mail, postage paid, or by a national overnight courier or delivery service, properly addressed to the individual shown in the UIIA subscriber record. Either Party, at any time, may change its address by written Notice to the other party sent as provided in this Paragraph. The earlier of (1) the date of receipt or (2) three days after the date which written Notice is given in accordance with this Paragraph shall constitute the initial date of Notice in computing the elapsed time as specified in any Notice requirement in this Agreement.”

The panel reviewed the documentation and determined that the MC had not advised the EP of the move, although they did advise UIIA. The EP sent invoices to the old address, but apparently did not follow up once the invoices became outstanding.

DECISION: The panel unanimously finds that the costs and per diem charges should be borne equally by the MC and the EP. It appears that neither party exercised due diligence to the extent that the invoices could have been mitigated or avoided had the invoices been processed in a timely manner. It is clear from G.14.b. that notices such as changes of address should be sent to each party to the interchange contract. Invoices tendered should be followed up in a prompt manner. We can see that neither situation pertained in this case.

The invoices covered in this decision are:

NYC...8083X \$00 Moves performed in Jan 2009
NYC...5742X \$00 Moves performed in Sept 2008
NYC...5370X \$00 Moves performed in Sept 2008

As stated above each party shall bear the cost of half of the value of the invoices and of the costs to bring this appeal.

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)	
)	
UIIA MOTOR CARRIER, Appellant, and)	Case Number: 20150626-3-XXXL-PD
)	
UIIA EQUIPMENT PROVIDER, Respondent)	Date of Decision: 12/23/15

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICES:

Invoice	Invoice #	Inv. Date	Amount	Facility	Outgated	Ingated
1	PF1502000827001	2/11/15	\$00.00	Berth 233/Berth 233	12/9/14	12/31/14
2	PF1502001493002	2/17/15	\$00.00	Berth 233/Berth 233	12/9/14	1/3/15
				PCT/PCT	12/25/14	1/15/15
				Berth 233/Berth 233	1/2/15	1/17/15
				PCT/PCT	1/3/15	1/12/15
3	PF1502001348001	2/17/15	\$00.00	Berth 233/Berth 233	1/31/15	2/6/15
				Berth 233/Berth 233	1/31/15	2/6/15
4	PF1504000170001	4/1/15	\$00.00	PCT/PCT	3/16/15	3/24/15
5	PF1504001706001	4/15/15	\$00.00	Berth 233/Berth 233	4/3/15	4/13/15

MOTOR CARRIER’S BASIS OF DISPUTE:

The Motor Carrier’s basis of dispute is Section E.6.c of the UIIA. The Motor Carrier states that the Equipment Provider billed them at the wrong address which resulted in the Motor Carrier not receiving invoices within the sixty (60) day timeframe. The Motor Carrier further states that the Equipment Provider verbally advised them of the invoices on April 3, 2015, during a meeting between the parties regarding another billing issue. The Motor Carrier reported that at that time, the Equipment Provider showed the invoices on a ledger; however, the Motor Carrier states they were never presented with the actual invoices until copies were provided with a suspension notice that was sent to the Motor Carrier on June 3, 2015. The invoice copies show they were sent to the following address: 1532 West Esther Street, Long Beach, CA 90813. The address on file with the UIIA at the time of the billing was: 2350 E. 48th Street, Vernon, CA-90058-0001.

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

The Equipment Provider responded that it is their practice that per diem invoices are sent out every fifteen (15) days via email and/or by fax to a number provided by the Motor Carrier and, therefore, the “trucker should receive the per diem consistently within the 60-day benchmark”. The Equipment Provider reported that the disputed invoices were sent to fax no.: (323) 585-9491 and e-mail: Maureen.todd@hansenfreightlines.com, and provided documentation that they transmitted the following invoices via email to Maureen Todd within the appropriate time frame:

Invoice	Invoice #	Inv. Date	Amount	Facility	Outgated	Ingated
3	PF1502001348001	2/17/15	\$00.00	Berth 233/Berth 233	1/31/15	2/6/15
				Berth 233/Berth 233	1/31/15	2/6/15
4	PF1504000170001	4/1/15	\$00.00	PCT/PCT	3/16/15	3/24/15
5	PF1504001706001	4/15/15	\$00.00	Berth 233/Berth 233	4/3/15	4/13/15

The Equipment Provider was unable to provide confirmation that Invoices PF1502000827001 and PF1502001493002 were submitted to the Motor Carrier either by email or fax.

DISCUSSION:

The panel reviewed all documents and evidence submitted by the parties. The Motor Carrier contends that the Equipment Provider billed them at the wrong address which resulted in the Motor Carrier not receiving invoices within the sixty (60) day timeframe. Copies of the Invoices show they were sent to 1532 West Esther Street, Long Beach, CA 90813. The Motor Carrier address on file with the UIIA at the time of the billing was 2350 E. 48th Street, Vernon, CA-90058-0001.

The Equipment Provider responded that it is their practice that per diem invoices are sent out every fifteen (15) days via email and/or by fax to a number provided by the Motor Carrier, and provided documentation confirming that they transmitted Invoices PF1502001348001, PF1504000170001 and PF1504001706001 via email to Maureen Todd, at the email address listed above, within the appropriate time frame. The Equipment Provider was unable to provide confirmation that Invoices PF1502000827001 and PF1502001493002 were submitted to the Motor Carrier either by email or fax.

The panel has carefully reviewed this case and has reached a decision that the Equipment Provider did timely submit Invoices PF1502001348001, PF1504000170001 and PF1504001706001, but the Equipment Provider failed to provide confirmation that Invoices PF1502000827001 and PF1502001493002 were timely submitted. Therefore, the panel finds in favor of the Equipment Provider with regard to Invoices PF1502001348001, PF1504000170001 and PF1504001706001; and in favor of the Motor Carrier as to Invoices PF1502000827001 and PF1502001493002.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (January 26, 2015) to make its decision:

E. Equipment Use

6.c Provider shall invoice Motor Carrier for Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges within sixty (60) days from the date on which Equipment was returned to Provider by Motor Carrier. If Motor Carrier is not invoiced within the established timeframe, the right of the Provider to recover such charges will be lost. **[Revised 01/17/12]**

G. General Terms

G.14.b. Notices – Notices required under this Agreement from Motor Carrier to Provider, or from Provider to Motor Carrier, shall be in writing and sent via e-mail, by confirmed facsimile or by first class mail, postage paid, and properly addressed to IANA. Alternatively, such written Notice can be personally served, sent by registered or certified mail, postage prepaid, or by a national overnight courier or delivery service, properly

addressed to the individual shown in the UIIA subscriber record. Either Party, at any time, may change its address by written Notice to IANA via e-mail, fax or mail. The earlier of (1) the date of receipt or (2) three days after the date such written Notice is given in accordance with this Paragraph shall constitute the initial date of Notice in computing the elapsed time as specified in any Notice requirement in this Agreement.

DECISION: The panel unanimously finds in favor of the Equipment Provider with regard to Invoices PF1502001348001, PF1504000170001 and PF1504001706001; and in favor of the Motor Carrier as to Invoices PF1502000827001 and PF1502001493002.

CASE REVIEWED AND DECIDED BY:

ROBERT A. CURRY
Motor Carrier Member

DAVE DALY
Ocean Carrier Member