

TO TELL THE TRUTH

Full disclosure of terms and conditions of the carrier/owner-operator contract is one way of leveling the playing field between the good and bad carriers.



By Joanne Ritchie

How much am I paying for the insurance coverage on my truck? What coverage do I get for my money? How much of a fuel surcharge am I collecting? Incredible as it sounds, these are questions even business-savvy owner-operators have a hard time getting answers to. And there's nothing in Canadian trucking-related regulation that calls for disclosure of terms like these. That's why we need some sort of truth in leasing law here in Canada.

When fuel surcharges are collected, the contract should require the carrier to disclose the amount collected and the amount to be paid to the owner-op. When insurance is charged back to the owner-op, there needs to be disclosure of what the real cost of insurance is and what kind of coverage he or she is getting for their money. And the list goes on. With some straightforward and transparent rules in place, owner-ops would have a clearer picture of who is playing fair – or not.

In the U.S., the so-called "truth in leasing" rules drafted in the 1970s are now wrapped up in the DOT's Code of Federal Regulations (CFR 49 – Part 375 – Lease and Interchange of Vehicles). In

a nutshell, it's a set of regulations governing owner-operator contracts, covering the various aspects of the lease relationship between the company and the owner-operator.

Carriers don't particularly like the U.S. rule – there are many areas subject to interpretation by various state courts – and owner-operators seldom take advantage of the protection it offers, but it carries the force of law.

So, with all the recent talk of level playing fields, I'm suggesting that we need a mechanism to help owner-ops make better choices when choosing a carrier. Made-in-Canada regulation developed co-operatively by owner-operator and carrier groups would be a good place to start.

Like our colleagues at the CTA and its provincial affiliates, we want to do all we can to purge the bad apples from the business. If something like the truth in leasing rules could be implemented here in Canada, owner-ops would have a tool to level the playing field between the good and bad carriers. And since the good carriers would presumably have nothing to hide in their contracts, I can't imagine why the carrier associations wouldn't get behind such an initiative. With nothing to hide, and with a means of exposing the unscrupulous operators, the rules could force certain carriers to either clean up their act or fold up their tents due to the lack of drivers willing to be shafted.

The American rules don't speak to rates or terms and conditions; they simply require that the terms of the con-

tract be spelled out clearly, and they impose certain requirements that keep carrier/owner-op contracts fair for everyone. As the name implies, "truth in leasing" rules demand transparency, and that's more than we have now in many instances.

For example, I'd like to see something that forces carriers to disclose how holdback monies are handled; how much is retained, what interest is paid on the money, and when the owner-op might expect to see the money after parting ways with the carrier. It should also require detailed statements be issued explaining the disbursement of the holdback upon quitting, if any portion of the money is retained by the carrier.

We should no longer accept carriers telling contractors that all the money was owed to cover non-existent or dubious fuel bills or freight claims. We don't want to dictate the terms of the holdback account – rates, and so on – but we do want to see a plain language explanation of how those accounts are handled.

Markups on chargeback items like fuel and insurance, when applied against administrative costs, are appropriate provided they are disclosed in the contract and itemized on the statement. Marking up the price of fuel or insurance for profit is another story.

Then there are the surcharges. Carriers often bill accessorial charges such as after-hours delivery, special handling, and of course, fuel. What portion of those charges flow through to the person who does the work? Who knows. That's why we need transparency in owner-operator/carrier contracts; some variation on the "truth in leasing" theme is long overdue here in Canada. ☹