



NATIONAL GRAIN AND FEED ASSOCIATION

Arbitration Decisions

June 4, 1981

ARBITRATION CASE NO. 1560

PLAINTIFF: Bunge Corporation

DEFENDANT: Doyle Haynes

FACTS

On June 6, 1980 Bunge Corporation requested that arbitration proceedings which it had initiated on May 16, 1979 be pursued against Mr. Doyle Haynes, Roscoe, Illinois. The dispute involved contracts for the delivery of soybeans. This request was prompted by an Order issued by the Circuit Court of the 17th Judicial Circuit, Winnebago County, Illinois on May 23, 1980 ordering that the dispute between the parties be arbitrated pursuant to their Contracts 9571 and 9598. The association sent notice of the reinstatement of the arbitration proceeding to the defendant on June 17, 1980.

The plaintiff Bunge Corporation filed its first argument pursuant to Arbitration Rule 7(b) on September 2, 1980. A copy was sent to the defendant Doyle Haynes in care of Mr. Clark, and received by him on September 16. Accordingly, Arbitration Rule 7(d) permitted the defendant until October 7 to file his answer. No answer was filed, and a default could have been ordered under Rule 7(h), which provides that "the delinquent party shall be in default." However, because of Mr. Clark's inability to locate Mr. Haynes, and because Bunge orally waived the noncompliance with Rule 7(d), on October 16 Mr. Clark was given a fifteen (15) day extension to file his answer. Thus, the answer was then due on October 22. The answer was not sent until October 29, 1980.

Rule 7(h) provides that a party shall be in default if he fails to comply with the time limits in Rule 7. There was without a doubt such a failure in this case by the defendant. No judicial or quasi-judicial proceeding can function effectively unless the time limits in their applicable rules are observed and enforced. The defendant here has been given every benefit of the doubt, including a waiver of a prior default. The default called for in Rule 7(h) is mandatory, and only one extension of time may be granted.

Accordingly, pursuant to its rules the defendant Doyle Haynes is deemed by the National Grain and Feed Association to be in default, and judgment is awarded to plaintiff Bunge Corporation as requested in its complaint in the amount of \$12,645.00 plus interest from March 16, 1979 of \$2,853.55, (one percent over the prime rate of 11.75% on March 16, 1979), for a total of \$15,498.55.