



NATIONAL GRAIN AND FEED ASSOCIATION

Arbitration Decisions

May 5, 1983

Arbitration Case Number 1594

Plaintiff: Scoular-Bishop Grain Company, Omaha, Nebraska

Defendant: Fredricks Grain Company, Portland, Oregon

Statement of the Case

On May 2, 1979 Scoular-Bishop sold Fredricks Grain 50,000 bushels of corn F.O.B. North Coast Export for July 1979 shipment (Scoular-Bishop sale SO 7573 - Fredricks purchase 4824-P). This dispute involved payment for one carload of corn applied on that contract.

On Aug. 8, 1979, Cargill Inc., Alberta, Minnesota, loaded and billed car of corn TLDX 7516. This car of corn passed through at least two other firms before being applied to Scoular-Bishop. Scoular-Bishop applied the car to Fredricks Grain, which in turn sold or applied the car to Western Farmers Association, Tacoma, Washington. Car TLDX 7516 was unloaded between Aug. 16 and 22, 1979 by Western Farmers Association, Tacoma, Washington.

Fredricks Grain requested documents from Scoular-Bishop on TLDX 7516 on Oct. 26, 1979, again in November and again in December 1979. There was no response to the requests. Dec. 10, 1979, Western Farmers went into receivership under the bankruptcy laws of Chapter 11. On March 14, 1980, Fredricks received Scoular-Bishop's draft on TLDX 7516 with an invoice and copy of the bill of lading attached. The invoice amount was \$8,586.53. Fredricks refused the draft on March 17, 1980, citing delay in presenting the invoice and failure to attach the original bill of lading.

On Aug. 23, 1982 Scoular-Bishop wrote Fredricks requesting payment of its invoice for \$8,586.53 covering car TLDX 7516. After further letter communications between the two parties and a telephone call on Sept. 10, 1982, the matter was referred to arbitration. The Plaintiff claimed \$8,586.53.

The Decision

The arbitration committee unanimously found for the Defendant, Fredricks Grain Company, and denied the Plaintiff's claim. The basis for the decision was as follows:

Scoular-Bishop was negligent in not presenting a draft in a reasonable period of time. Further, the draft the company presented seven months later did not comply with the provisions of Grain Rule 31, which requires bills of lading attached to the draft to be original and negotiable.

Fredricks requested documents on TLDX 7516 from Scoular-Bishop during October, November and December 1979 without results. Other cars applied to the same contract, shipped in the same time period (within one week) and unloaded by Western Farmers Association were paid in full between Sept. 10 and Nov. 19, 1979. The bankruptcy should not have been involved had invoicing been done on a timely basis. Fredricks was prevented from invoicing and collecting from Western Farmers due to documents delayed by Scoular-Bishop.

Merlin W. Mills, Chairman
ADM Grain Company, Minneapolis, Minnesota

Richard Neet
Rock Mountain Brokerage, Greeley, Colorado

Jack Wyard
AGRI Industries Inc., Des Moines, Iowa