

# Arbitration Decisions

October 17, 1961

ARBITRATION CASE NO. 1497

Plaintiff: W. B. Dashiell Company, Memphis, Tennessee  
Defendant: Blue River Feed Mills, Inc., Edinburg, Indiana

The decision of the Arbitration Committee was for the Plaintiff. Following is the decision as submitted by the Arbitration Committee.

1. By unanimous agreement the Arbitration Committee finds that the Defendant, Blue River Feed Mills is not entitled to a replacement of the truckload of Cottonseed Meal rejected on January 12, 1961. Plaintiff reports offering to rush a replacement on at least two occasions after learning of the rejection and Defendant refused these offers, thus losing his rights in this phase of the disagreement. The Arbitration Committee fails to find that Defendant has denied the offer of replacement and the subsequent refusal to accept it and thus concludes that Plaintiff did, in fact, make such offer and it was declined.
2. By majority vote the Arbitration Committee finds that Defendant, Blue River Feed Mills is liable for the amount of \$320.08 covering transportation and analysis charges and must pay this amount to the Plaintiff, W. B. Dashiell Company.

The majority opinion on this question takes note of the fact that Defendant failed to take immediate steps to prove the Cottonseed Meal was out of condition on arrival and that the analysis certificate finally furnished did not bear out his contention that the meal was sour. It appears further that Defendant was lax in that he did not properly identify the truck involved nor have the sampling and analysis entirely in the hands of a disinterested party. Since shipments of feed ingredients are assumed to be cool, sound and sweet and a vast majority of them are, it is axiomatic that a receiver must take positive steps to prove his contention that they are out of condition.

The minority opinion on the question of liability for the \$320.08 finds that the Plaintiff is not entitled to such amount since he ordered the meal returned to Osceola, Arkansas and should have had the shipment inspected and analyzed at Edinburg, Indiana before making a decision regarding its disposal.

The Arbitration Committee action in the above case No. 1497 consists of:

Mr. Dean K. Webster, Jr.  
Mr. T. H. Hughston  
Mr. J. W. Mathers, Chairman

The Defendant notified the National Secretary of his intentions to appeal the decision of the Arbitration Committee on August 21, 1961.

Defendant decided later against appeal and paid Plaintiff's claim of \$320.08.

The Arbitration Committee by majority vote recommended that the arbitration deposit fee of \$25.00 from each litigant be converted to the general treasury of the National Association.