



NATIONAL GRAIN AND FEED ASSOCIATION

Arbitration Decisions

December 30, 1980

ARBITRATION CASE NUMBER 1558

PLAINTIFF: LOUIS DREYFUS CORPORATION
SHAWNEE MISSION, KANSAS

DEFENDANT: LAPEYROUSE GRAIN COMPANY
MOBILE, ALABAMA

This case involved a dispute arising from the rejection by the Defendant of two cars tendered by the Plaintiff as part of an 80,000 bushel contract entered into by the parties. The contract terms specified settlement terms based on first official grades and destination weights.

Louis Dreyfus Corporation contended that it fully complied with the terms of the contract having tendered the cars whose quality as indicated by an origin official inspection fully satisfied the terms of the contract. Louis Dreyfus Corporation further contended that rejection of the cars based on a destination official inspection certificate was a violation of the contract by the Defendant and sought damages calculated as follows:

1. Freight charges to and from Mobile at the domestic rate of 31¢ per bushel each way or 62¢ per bushel on 5,912 bushels or \$3,665.00.
2. Interest costs for 15 days (replacement). 5,912 bushels times \$6.92 equals \$40,911.00. 18% interest for 15 days equals \$303.00.
3. Handling costs of loading and unloading the rejected soybeans. 5,912 bushels times 10¢ per bushel equals \$591.00.

Lapeyrouse argues that:

1. Buyer's contract specified, "shipment not to contain crotalaria."
2. That Defendant did not reject the cars. Rejection was the act of the Mobile Public Elevator.
3. That a Federal Appeal Inspection at destination was the final governing grade.

In an attempt to determine the facts of this case the Committee noted:

1. The Plaintiff did not submit a copy of the first official grade certificate. Plaintiff did submit a copy of the origin appeal certificates. The appeal certificates were based on the file sample. We note with interest that the date of the origin appeal on SCL 240559 pre-dates the apparent date of rejection but that the origin appeal inspection on SCL 241567 post-dates the date of rejection at Mobile. Regardless, both certificates satisfied contract quality.
2. That Plaintiff did not submit a copy of any freight bills to substantiate his claim for freight charges.

(over)

3. That Plaintiff did not seek damages for any demurrage that certainly accrued to these units.
4. That Plaintiff did not submit any weight certificates to substantiate the quantity involved.
5. That Defendant does not challenge the weight.
6. That Defendant does not challenge that Plaintiff complied with Rule 22(a).

The Committee, by unanimous agreement, finds in favor of the Plaintiff, Louis Dreyfus Corporation, based on the following:

1. The contract clearly stated that applicable quality was to be based on first official grades. The Defendant neither challenged that the first official inspection satisfied the contract terms nor claimed that Plaintiff did not comply with Rule 22(a).
2. The argument that Defendant did not reject the cars but that the rejection was the act of the Mobile Public Elevator is not pertinent. The Mobile Public Elevator was not a party to the contract.
3. While the buyer's contract clearly states, "guaranteed free of any crotalaria," it did not state that seller must comply with a determination at destination. The contract clearly stated that first official grades were to determine if quality was applicable to the contract. The Plaintiff complied with this provision.
4. The Committee totally rejected the Defendant's contention that Federal Appeal grade at destination was the governing grade. That argument may have validity had the units in question come under the authority of the Food and Drug Administration. There was no evidence this happened in that case.

Therefore, the Committee ordered Lapeyrouse Grain Company to pay Louis Dreyfus Corporation damages in the amount of \$4,500.23, calculated as follows:

1. Freight charges - domestic rate applicable 1/17/80 from Douglas, Georgia to Mobile of \$10.26 per ton and the domestic rate from Mobile to Douglas, Georgia applicable 2/1/80 of \$10.26 per ton.
 $\$10.26$ per ton equals $30\text{-}3/4\text{¢}$ per bushel times 2 equals $61\text{-}1/2\text{¢}$ /bu.
 $5,912$ bushels times $61\text{-}1/2\text{¢}$ per bushel equals \$3,635.88.
2. Interest expense incurred at the rate of 16.25%, which represents 1% over Chase Manhattan prime rate effective 1/17/80.
 $5,912$ bushels times $\$6.92$ per bushel equals \$40,911.04. 16.25% interest for 15 days equals \$273.15.
3. Handling costs incurred by shipper on the rejected cars at 10¢ per bushel.
 $5,912$ bushels times 10¢ per bushel equals \$591.20.

/s/ James Hessburg, Chairman
 Cargill, Inc.
 Baton Rouge, LA

/s/ Millard Roberts
 FCX, Inc.
 Raleigh, NC

/s/ Patrick Williams
 Great River Grain Corp.
 St. Joseph, LA