



NATIONAL GRAIN AND FEED ASSOCIATION

Arbitration Decisions

October 5, 1982

ARBITRATION CASE NUMBER 1575

PLAINTIFF: Feeders Grain Co., Phoenix, Arizona

DEFENDANT: Italgrani U.S.A. Inc., Minneapolis, Minnesota

Statement of the Case

The dispute in this case involved the eligibility for rail premiums on certain cars of durum wheat shipped from specified rate points to the Gulf. Applications on three contracts listed below were involved:

Plaintiff no. 1-0591	Defendants no. P-1899	both dated 7/15/80
" " 1-0595	" " P-1904	" " 7/16/80
" " 1-0649	" " P-2105	" " 8/20/80

Both parties endorsed the other's contracts as written.

Plaintiff claims on contract 1-0591/P-1899	\$ 544.50
" 1-0595/P-1904	\$ 7,427.16
" 1-0649/P-2105	\$32,076.97
Total	\$40,048.63

1. Contracts 1-0591/P-1899 - One car in dispute shipped from Vinton, Texas. Both contracts read F.O.B. Arizona rate points with 15 cents cwt premium allowed if F.O.B. New Mexico rate points.
2. Contracts 1-0595/P-1904 and 1-0649/P-2105 - Plaintiff's contracts read F.O.B. Arizona rate points with 15 cents cwt premium allowed if F.O.B. New Mexico rate points and 28 cents cwt premium over the Arizona F.O.B. price for shipment to Gulf Ports if shipped from Fabens, Texas rate points. Defendant's contracts read the same except Defendant specified the 28 cents cwt premium allowance on cars origin Fabens, Texas if Houston destination. On contracts 1-0595/P-1904 the dispute involved 5 cars shipped from New Mexico points and 11 cars shipped from Fabens, Texas rate points. On contracts 1-0649/P-2105 the dispute involved 71 cars shipped from New Mexico points and 21 cars shipped from Fabens, Texas points.

Decision

1. Contracts 1-0591/P-1899 - Plaintiff applied the one car in question within contract terms but Plaintiff's claim of \$544.50 was based on the Texas rate point premium. Those contracts did not specify a Texas rate point premium, however the shipping point, Vinton, Texas did take a New Mexico rate thus Plaintiff was awarded the 15 cents cwt New Mexico rate premium: \$291.69.

2. Contracts 1-0595/P-1904 and 1-0649/P-2105 - Plaintiff applied a total of 71 cars from New Mexico origins which were applicable at the 15 cents cwt premium per contract terms of both parties. Plaintiff was awarded his claim of \$1,443.70 on contracts 1-0595/P-1904 and \$20,614.12 on contracts 1-0649/P-2105. Also on above two contracts Plaintiff shipped 31 cars from Fabens, Texas rate points. (It is noted that Defendant did not confirm Fabens, Texas rate points, rather he confirmed simply Fabens, Texas. Since it is the custom of the trade that shipping points within an area with equal rates are applicable, this committee ruled that the Texas points applied were applicable.) Plaintiff endorsed Defendants contracts specifying Houston destination on shipments from Fabens, Texas to be eligible for the 28 cents cwt premium and Defendant endorsed Plaintiff's contracts allowing the 28 cents cwt premium for destination Gulf Ports. Since it was obvious that both parties were negligent in checking each other's contracts regarding specified destinations, it was ruled that half of Plaintiff's claim be allowed on the 31 cars shipped from Fabens, Texas rate points. Plaintiff's claim \$5,983.44 for origins Fabens, Texas rate points; contracts 1-0595/P-1904 was halved. Plaintiff was awarded \$2,991.72. Likewise Plaintiff's claim \$11,462.85 for origins Fabens, Texas rate points contracts 1-0649/P-2105 was halved. Plaintiff was awarded \$5,731.42.

3. The arbitration committee of the National Grain and Feed Association, by unanimous agreement awarded to Plaintiff as follows:

Contract 1-0591 / P-1899	\$ 291.69
" 1-0595 / P-1904	\$ 4,435.42
" 1-0649 / P-2105	\$ 26,345.54
Total	\$ 31,072.65

Submitted with the consent and approval of the arbitration committee, whose names appear below:

R. T. Creekmore, Chairman Indiana Grain Queen City Elevators Cincinnati, Ohio	Dock Decker Coast Grain Company Norwalk, California	Lew Meibergen W.B. Johnston Grain Company Enid, Oklahoma
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ARBITRATION CASE NUMBER 1575

Decision of Arbitration Appeals Committee

APPELLANT: Italgrani U.S.A., Inc., Minneapolis, Minnesota

APPELLEE: Feeders Grain Company, Phoenix, Arizona

The Arbitration Appeals Committee considered the evidence as presented to the original arbitration committee and reviewed the findings of that committee.

The committee was unanimous in its affirmation of the decision of the original arbitration committee which awarded the Appellee (Feeders Grain Company) \$31,072.65.

James Donnelly, Chairman R.F. Cunningham & Co., Inc. Melville, New York	Charles Holmquist Holmquist Elevator Company Omaha, Nebraska	Clayton Johnson Mid States Terminals Toledo, Ohio
Royce Ramsland The Quaker Oats Company Chicago, Illinois	W. C. Theis Simonds-Shields-Theis Grain Company Kansas City, Missouri	