



National Grain and Feed Association

Arbitration Decision

1250 Eye St., N.W., Suite 1003, Washington, D.C. 20005-3922
Phone: (202) 289-0873, FAX: (202) 289-5388, E-Mail: ngfa@ngfa.org, Web Site: www.ngfa.org

January 15, 2009

Arbitration Case Number 2258

Plaintiff: The Scoular Co., Minneapolis, Minn.

Defendant: R L Box Farms, White Hall, Ark.

Factual and Procedural Background

The plaintiff, The Scoular Co. (Scoular), requested the entry of a default judgment in the amount of \$82,750.00 against the defendant, R L Box Farms (R L Box). The default judgment was granted for the reasons set forth below.

Scoular submitted an arbitration complaint dated May 8, 2008 to the National Grain and Feed Association (NGFA). The complaint alleged that R L Box failed to perform on duly signed Scoular contract no. PS1373710 for delivery of #2 yellow soybeans and contract no. PS1373729 for delivery of #1 yellow soybeans. Each of these contracts contained provisions specifically providing for the resolution of any disputes that arise under these agreements by the NGFA.

Acting upon Scoular's complaint, the NGFA prepared an arbitration services contract and submitted it to Scoular for execution. By certified mail dated May 21, 2008, the NGFA also sent to R L Box a letter providing notice of these proceedings with copies of Scoular's complaint and attachments, as well as the NGFA Trade Rules and Arbitration Rules. The certified mail return receipt confirmed that this mailing to R L Box was signed for and received on May 27, 2008.

Upon receipt of the duly executed arbitration services contract from Scoular, the NGFA then sent it with accompanying correspondence to R L Box by certified mail on June 11, 2008. The certified mail return receipt confirmed that this mailing to R L Box was signed for and received on June 16, 2008.

On Aug. 4, 2008, the NGFA sent another letter by Federal

Express delivery. Federal Express confirmed that this mailing was delivered on Aug. 6, 2008. The NGFA's letters of June 11, 2008 and Aug. 4, 2008 to R L Box specifically provided notice that Sections 5(c) and (d) of the NGFA Arbitration Rules required that the signed contract be returned within fifteen (15) days.

After still not receiving any response from R L Box, or any indication that a response was forthcoming, the NGFA sent yet another notice to R L Box on Sept. 11, 2008 by Federal Express delivery. This notice further specifically stated as follows:

*"NGFA Arbitration Rules 5(d) and (e) provide for the entry of a default judgment when a party fails to execute the arbitration contract and pay the service fee within fifteen (15) days. Based upon the lack of any response from you thus far, we must anticipate that you do not intend to respond. **This is our last attempt to elicit a response from you. A default judgment may be entered against you at any time, which the Plaintiff may enforce in a court of law.**" [Emphasis in original.]*

Federal Express confirmed that this mailing was delivered to R L Box on Sept. 15, 2008.

The NGFA has yet to receive an executed arbitration services contract from R L Box, despite the repeated attempts by NGFA to contact them.

Default Judgment

The NGFA established jurisdiction over this matter pursuant to the express terms of contracts and by way of Scoular's status as a NGFA active member.

Scoular properly and in a timely manner filed its complaint under NGFA Arbitration Rules Section 5(a). Pursuant to Section 5(b), the NGFA then submitted an arbitration services contract to the parties. Section 5(d) states that, "it shall be the duty of both parties to complete the contract for arbitration within fifteen (15) days from the date the party receives the contract from the National Secretary." Scoular properly executed and returned the arbitration services contract. R L Box refused to comply with the NGFA Arbitration Rules, and refused to respond to any arbitration-related mailings.

NGFA Arbitration Rule Section 5(e) provides for the following:

"Where a party fails to pay the arbitration service fee and/or fails to execute the contract for arbitration, the

National Secretary may without further submissions by the parties enter a default judgment or such other relief as the National Secretary deems appropriate."

As it appears that R L Box Farms made a conscious decision to disregard these arbitration proceedings, pursuant to Section 5(e) of the NGFA Arbitration Rules, the National Secretary finds that entry of default judgment against R L Box Farms is proper and warranted.

Therefore, on Dec. 17, 2008, the NGFA entered a default judgment against the defendant. The defendant was also advised that NGFA Arbitration Rule Section 5(e) sets forth the requirements and conditions under which, "[a]ny party against whom a default judgment has been entered under this provision may apply for vacation of the default judgment within fifteen (15) days of entry of the default judgment." In this case, the defendant did not apply to vacate the default judgement pursuant to Section 5(e).

The Award

THEREFORE, IT IS ORDERED THAT:

1. The Scoular Co. is awarded judgment against R L Box Farms for \$82,750.00.
2. Interest on the judgment shall accrue at the statutory rate available for judgments in the applicable jurisdiction from this date until paid in full.

Dated: December 17, 2008

NATIONAL GRAIN AND FEED ASSOCIATION

By: Charles M. Delacruz
National Secretary