



National Grain and Feed Association Arbitration Decision

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September 23, 2026

CASE NUMBER 2956

PLAINTIFF: PARRISH & HEIMBECKER, LIMITED, QUILL LAKE, SASKATCHEWAN, CANADA

DEFENDANT: KELLY BZDEL, WISHART, SASKATCHEWAN, CANADA

STATEMENT OF THE CASE

On November 23, 2020, Parrish & Heimbecker, Limited (“P&H”) and Kelly Bzdel (“Bzdel”) (collectively “Parties”) entered into contract number 300547 for 544 metric tons of #1 Canada Western Barley for October 2021 delivery to Quill Lake, SK elevator (“Contract Confirmation”). The agreed upon price was \$195.20 per MT. On November 23, 2020, P&H signed the Contract Confirmation, and Bzdel electronically signed it later the same day. The Contract Confirmation specifically provided that the NGFA Grain Trade Rules applied to any contract between the Parties and that NGFA Arbitration would govern any dispute. The following day, November 24, 2020, it appears that Bzdel signed the back of the Contract Confirmation with additional terms and conditions, which provided:

If Seller finds he/she cannot deliver the contracted quantity, Seller shall immediately advise Buyer. If Seller fails to notify Buyer of their ability to complete the contracted delivery, Seller’s liability shall continue until Buyer can determine whether Seller has defaulted. Buyer, when so notified or upon such determination, shall by the close of the next business day elect either to: (a) agree with Seller to extend the time for delivery; or (b) after having given notice to seller to complete the contract, buy-in for Seller’s account the defaulted portion of the contract; or (c) after having given notice to Seller to complete the contract, cancel the defaulted portion of the contract at the difference between the contracted price and the replacement cost, plus an administrative fee of \$10 per metric tonne. Seller shall pay to Buyer on demand the amount as may be determined under paragraph 7(b) or 7(c), as may be applicable.

The Parties agree that during the summer of 2021, it was hot and dry in the Canadian prairies and many crops did not mature in the fields. The Parties also agree that Bzdel’s barley crop was battered by a hail and rainstorm in mid-July 2021. Finally, the Parties agree that on July 23, 2021, Bzdel called P&H to inform P&H that his barley crop suffered major damage because of golf ball to baseball sized hail.

On July 23, 2021, P&H visited Bzdel’s property and completed the Buyback Questionnaire (“P&H Questionnaire”). P&H Questionnaire read: “*We [P&H] do not entertain buybacks unless a ‘total loss event’ has occurred; we need to define yield loss with specifics.*” Then in the P&H Questionnaire there was a handwritten note that read: “*Hail storm wiped him out[.] [G]olf ball to baseball sized hail[.] 30 years farming never been hailed before[.] [N]ot concerned about his canola contract[.]*”

From November 2020 to October 2021, the price of barley went from \$195 CAD/MT to about \$380 CAD/MT. P&H would not agree to roll the Contract Confirmation forward to the next year.

P&H represented that on or about October 25, 2021, Bzdel delivered approximately 58 tons of barley to the Quill Lake, SK elevator for a total amount of \$11,311.16 CAD. The next day, on October 26, 2021, P&H processed a Contract Cancellation Invoice with a quantity of 485.738 tons for a total amount owed \$94,096.68 CAD (which included a fee amount of \$4,857.38 CAD) (“Cancellation Invoice”). In the Cancellation Invoice, there was a provision that provided: *“Due upon receipt of Invoice, Interest will be charged daily on overdue invoices until payment is received. Service Charge of 1.50% per month (19.6% annum) on all overdue invoices.”*

P&H argues that it is entitled to \$94,096.68 CAD plus interest for the defaulted portion of the Contract Confirmation. P&H argues that it acted in good faith to resolve the dispute, exercised due diligence and acted “at once when it was determined with certainty” that Bzdel would not fulfill his contractual obligations.

Bzdel argues that he understood the 25,000 bushels to be a limit and not a contracted amount, so he did not consider himself to be in default when his barley crop only produced approximately 2,676 bushels of barley (58.262MT). Bzdel also argues that there is bias within the NGFA tribunal panel and that the contract was an unconscionable bargain in support of the assertion that the NGFA tribunal should engage in equitable doctrine of rectification (in other words, correcting errors in a written agreement to accurately reflect the parties’ true intentions) of the Contract Confirmation. Bzdel argues that P&H did not intentionally try to bind Bzdel to delivery of the 544 MT of barley.

Bzdel asserts counterclaims against P&H for fraudulent and negligent misrepresentation for actions of two of P&H’s employees as well as breach of good faith dealing. Bzdel seeks damages of \$6,976.12 (the claimed market price of the barley delivered on October 25, 2021, minus \$11,311.16 already received by Bzdel) plus punitive damages of \$50,000 and “legal and administrative cost to be reimbursed at the discretion of the committee.”

Bzdel argues in the alternative that if rectification is not available that P&H should be limited to the replacement value of the barley as of July 24, 2021 (the day after P&H was notified of Bzdel’s inability to deliver). Bzdel asserts that the replacement value on that date was \$27,197.39.

Finally, Bzdel argues that interest is limited by the Interest Act (Canada) to 5%.

THE DECISION

As arbitrators, it is well-established that we are obligated to enforce the agreements made by the parties, regardless of whether we feel that it is fair or equitable or in conformity with the NGFA Trade Rules. The Parties are free to agree upon terms and conditions to any particular transaction. The arbitrators have taken into account all of the arguments, evidence, and information provided in the briefings. The arbitrators find that it is undisputed that P&H’s Contract Confirmation governs and that Bzdel did not timely object to any of the terms of the Contract Confirmation, which he was allowed to do. Rather, both Parties agree that they both signed the Contract Confirmation.

As to Bzdel’s argument that he did not understand what he was signing or that the 544 MTs were a ceiling and not a floor, this is not consistent with standard industry practice. Further, we cannot find any support for this assertion in the documentation or evidence presented to this arbitration panel.

When it comes to whether P&H should have found Bzdel in default in July 2021 when P&H visited Bzdel's fields and confirmed the hail damage, this could be a persuasive argument. However, P&H Questionnaire's specifically provided that it would not entertain buybacks unless there was a total loss event. Does the handwritten note on the P&H Questionnaire providing that the "*Hail storm wiped him out*" suffice? Ultimately, Bzdel admitted to delivering 58.262 MT of the barley that was originally contracted in the Contract Confirmation. P&H argues that it acted in good faith to resolve the dispute, exercised due diligence and acted "*at once when it was determined with certainty*" that Bzdel would not fulfill his contractual obligations in October 2021. This arbitration panel agrees.

Section 7 of the Contract Confirmation, which is signed by both Parties, provides in pertinent part for the options in case Seller notifies Buyer of the inability to deliver the contracted quantity:

Buyer, when so notified or upon such determination, shall by the close of the next business day elect either to: (a) agree with Seller to extend the time for delivery; or (b) after having given notice to Seller to complete the contract, buy-in for Seller's account the defaulted portion of the contract; or (c) after having given notice to Seller to complete the contract, cancel the defaulted portion of the contract at the difference between the contracted price and the replacement cost, plus an administration fee of \$10 per metric tonne. Seller shall pay to Buyer on demand the amount as may be determined under paragraph 7(b) or 7(c), as may be applicable. [Emphasis added].

This language is clear and unambiguous. P&H, as the Buyer, exercised the rights available to it under Section 7(c).

As to the question of whether this arbitration panel can rectify this language based upon the assertions from Bzdel, Section 16 of the Contract Confirmation provides that "[n]one of the terms of this Contract may be added to, deleted, or altered in any way without the written consent of an authorized representative of the Buyer." The arbitration panel neither has this written consent nor has any evidence before it to allow for rectifications or amendments. As such, not only is this arbitration panel not authorized to amend the Contract Confirmation, with this clear and unambiguous language, any attempt at revising or rectification would not be proper.

Finally, Section 13 provides that interest shall be at 1.5% per month.

Here, the Contract Confirmation language is clear and unambiguous. While Bzdel now wants to amend the provisions of the Contract Confirmation, that is not within the purview of this arbitration panel. Finally, this arbitration panel has not found any evidence to support the fraudulent or negligent misrepresentation claims proffered by Bzdel.

As such, the arbitrators award Parrish & Heimbecker the principle amount of \$89,239.30 CAD plus interest of 1.5% on the original principle amount. The arbitrators also award the administrative fees of \$4,857.38 CAD per the terms of the Contract Confirmation.

THE AWARD

The Arbitrators award Parrish & Heimbecker, Limited the principal amount of \$89,239.30 CAD plus the contractually agreed-upon interest of 1.5% per month on the original principal amount starting in October 2021 through the date of payment in full from Kelly Bzdel. The arbitrators also award the administrative fees of \$4,857.38 CAD per the terms of the Contract Confirmation.

Decided: March 3, 2026

Submitted with the unanimous consent of the arbitrators, whose names appear below:

Quinn Kulik, *Chair*

Vice President & General Counsel

J.D. Heiskell & Co.

Omaha, NE

Tony Smith

Vice President Grain Operations

United Quality Cooperative

Minot, ND

Mike Traxinger

SVP and General Counsel

Agtegra Cooperative

Aberdeen, SD