



National Grain and Feed Association Arbitration Decision

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1400 Crystal Drive, Suite 260
Arlington, VA 22202

P: (202) 289-0873
F: (202) 289-5388

September 23, 2026

CASE NUMBER 3009

PLAINTIFF: PARRISH AND HEIMBECKER, LTD., LACOMBE, ALBERTA, CANADA

DEFENDANT: KARY KONTRACTING LTD., VETERAN, ALBERTA, CANADA

STATEMENT OF THE CASE

This case involved contract number 287870 between the plaintiff, Parrish and Heimbecker, Ltd. (P&H), and the defendant, Kary Kontracting Ltd. (Kary), for the delivery of 1088 metric tons (MT) of #1 Canada Western Red Spring Wheat at \$257.21 per MT during October 2021.

Related to the partial cancellation of contract 287870 by P&H in the amount of 581.14 MT:

- 365 MT were bought-in at \$477.67 per MT (buy-in contracts numbered 346863, 346865 and 346866)
- The balance of 216.14 MT was canceled at fair market price of 477.67 per MT (fair market value per the buy-in contracts above)
- P&H issued cancellation contract number 10066445 for 581.14 MT to offset the balance due on contract 287870

The case presented issues of crop production impacted by weather-related conditions versus the validity of a cash contract. Both P&H and Kary conducted a field inspection in August 2021 prior to harvest, and no action was taken. On October 6, 2021, during the shipment period of the contract, Kary asked for a cancellation price. P&H responded with a cancellation price, but it was not accepted by Kary. Kary began delivery on the contract around mid-October 2021 (within the contract delivery terms). On November 2, Kary determined it would not be able to execute on the open balance of 581.14 MT due to a shortage of crop available.

P&H argued in the case that it followed the NGFA Trade Rules on non-performance at the time Kary provided notice it would not complete delivery on the contract. P&H cancelled the defaulted portion at market, and Kary refused to pay the outstanding balance.

Kary argued it provided notice of default at the time of the field inspection in August 2021. Kary agreed monies are owed to P&H because of the default, but Kary ultimately disputes the timing of the default and cancellation assessed by P&H.

THE DECISION

The arbitrators unanimously rule in favor of P&H.

P&H and Kary conducted a field visit in August 2021; however, Kary did not clearly request a cancellation price or cancel the contract at that time.

Kary defaulted on the contract, and P&H followed the correct NGFA protocols on cancellation given the circumstances.

The arbitrators award damages to P&H damages based upon the following calculations:

- Contract 287870 provided for 1088 MT for October 2021 shipment at \$257.21 per MT
- 506.86 MT were delivered and applied to the contract
- Remaining balance on the contract was 581.14 MT (portion in default)
- 365 MT was bought-in (under the three buy-in contracts for 200 MT, 35 MT and 130 MT) at \$477.67 per MT
- Remaining balance after buy-in of 216.14 MT was cancelled at \$477.67 per MT
- Total buy-in/cancellation of 581.14 MT at \$477.67 per MT
- Price spread of \$220.46 per MT (\$477.67 less \$257.21)
- Balance of 581.14 MT x \$220.46 per MT = \$128,118.12
- Administrative fees expressly provided in the contract = \$10 per MT (\$5,811.40)
- Credit from deliveries made on contract = \$47,927.97
- Net amount awarded to P&H for settlement of contract 287870 = \$86,001.55

THE AWARD

Therefore, the arbitrators award a total of \$86,001.55 to Parrish and Heimbecker Ltd from Kary Kontracting Ltd. Interest shall accrue on the award at a rate of 3.50 percent, pursuant to NGFA Arbitration Rules 6(F), from the date of this decision until the award is paid in full.

Decided: March 26, 2025

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

Chris Breedlove, *Chair*
General Manager and CEO
Willacy Co-op
Raymondville, TX

Jason Halm
Regional Manager
Viterro
Omaha, NE

Tess Jarmin
Grain Procurement Manager
United Quality Cooperative
Ross, ND



September 23, 2026

ARBITRATION APPEAL CASE NUMBER 3009

Appellant/Defendant: Kary Kontracting, Ltd., Veteran, Alberta, Canada

Appellee/Plaintiff: Parrish and Heimbecker, Ltd., Lacombe, Alberta, Canada

DECISION OF THE APPEALS COMMITTEE
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Arbitration Case 3009 was filed by Parrish and Heimbecker, LTD. (P&H) against Kary Kontracting, LTD. (Kary) for failure to deliver 581.138 Metric Tons (MT) of #1 Canada Western Red Spring Wheat (CWRS) that was initially contracted for delivery October 1 – October 31, 2021. Kary could not complete delivery of the contracted wheat within the contract delivery period due to a weather-related production shortfall. On November 2, 2021, P&H determined that Kary would be unable to complete delivery and subsequently bought in and cancelled the balance of the contract on November 3, 2021. P&H sought 86,001.09 Canadian Dollars (CAD) in damages and administrative fees from Kary for default on the contracted quantity of CWRS that was not delivered.

The original three-member Arbitration Committee unanimously agreed that P&H was justified in cancelling the contract and awarded P&H 86,001.55 CAD. Kary subsequently appealed the decision and also requested oral argument before the Arbitration Appeals Committee.

The Arbitration Appeals Committee, both individually and collectively, reviewed all the arguments and supporting documents provided in the record of the case for Arbitration Case 3009, which includes the findings and conclusions reached by the original Arbitration Committee. The Arbitration Appeals Committee further reviewed the briefs of the appellant and the appellee submitted in the appeal. An oral hearing was also conducted in this Appeal case in which both parties presented their arguments to the Arbitration Appeals Committee.

In every arbitration case, the duties of the arbitrators are to interpret the contract language and what is specifically agreed to between the parties particularly when those terms express contractual obligations that are different than the NGFA Trade Rules.

As detailed by the original Arbitration Committee, P&H and Kary verbally entered into P&H Contract 287870 on September 22, 2020, for delivery of 1088 MT CWRS at \$257.21 CAD/MT to be delivered during October 2021 to P&H's Joffre elevator facility. On September 29, 2020, P&H sent Kary an email asking that he confirm their contract to which Kary responded "I confirm."

NGFA Grain Trade Rule 3. Confirmation of Contracts: requires that both the Buyer and Seller send a written confirmation to the other party detailing the specifications of the trade. If either party fails to send a confirmation, the confirmation sent by the other party will be binding upon both parties. There was no documentation submitted in the Record of the Case that Kary sent a written confirmation. Therefore, the confirmation sent by P&H shall govern the contract that was formed between the Buyer and Seller.

The Arbitration Appeals Committee unanimously agreed with the original committee that a contract was formed between P&H and Kary.

The central issue in this arbitration is that Kary did not deliver the quantity contracted due to production issues. Kary recognized over the course of the summer of 2021 that adverse weather conditions were impacting the yield potential of the growing wheat crop that had been contracted for delivery to P&H grain facilities in October 2021. Kary telephoned P&H on July 27, 2021, and expressed his concern about the impact the hot, dry weather was having on his crops. At the request of Kary, on August 3, 2021, representatives of P&H met and walked both barley and wheat fields farmed by Kary. The affidavit by a P&H employee submitted in the case states:

We were looking at the potential yields and state of the barley fields. After completing the field walks and determining the current yield of the barley crops, we felt they would not be sufficient to fulfill the contracted amounts.

NGFA Grain Trade Rule 28. Failure to Perform (A) Seller's Non-Performance states:

If the Seller finds the Seller will not be able to complete a contract within the contract specifications, it shall be the Seller's duty at once to give notice of such fact to the Buyer by telephone confirmed by subsequent written communications.

Kary gave verbal notice, but no written documentation was provided, that his crop likely would not fulfill the amount he had contracted. General Terms and Conditions (GTC) are printed on the back of P&H's Contract 287870. Item 7 reads as follows:

*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:** [emphasis added] (a) agree with the Seller to extend the time of delivery; or (b) after having given notice to Seller to complete the contract, buy-in for the 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 ton. Seller shall pay to Buyer on demand the amount as may be determined under (b) or (c), as may be applicable.*

Kary began delivering wheat to P&H on October 12, 2021, and ultimately delivered 506.862 MT wheat that was applied to Contract 287870. That left a contractual shortfall of 581.138 MT.

As is custom of the trade, price bulletins provided by disinterested third parties are often relied upon to determine fair market value in thinly traded markets where there may be large price differences between the bid price and the asking price. MarketsFarm News listed in its August 4, 2021, newsletter that Alberta Wheat Commission listed the cash grain market of #1 CWRS for N. Alberta at \$376.64 CAD/MT. This price is what the Arbitration Appeals Committee used to wash the undelivered wheat that Kary did not deliver, as well as the \$10/MT administrative fee referenced in the contract, in the table below:

AWARD

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Decided: September 1, 2026

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

Jay Mathews, *Chair*
CEO
Prairieview Grain Trading
Champaign, IL

Sean Broderick
Director of Risk
CHS, Inc.
Inver Grove Heights, MN

Craig Haugaard
Grain Division Manager
Superior Ag
Huntingburg, IN

Jean Bratton
CEO
Centerra Cooperative
Ashland, OH

Charles Elsea
Chief Strategy Officer
The Redwood Group, LLC
Salina, KS