

Arbitration Case Number 1528

Plaintiff: U. & L. Grain Company, New Berlin, Illinois

Defendant: Continental Grain Company, Champaign, Illinois

August 3, 1976

Statement of the Case

This case involved a dispute over the condition of one compartment of corn in a three-compartment hopper car; one of eight cars sold by the Plaintiff, U. & L. Grain Company, to the Defendant, Continental Grain Company, under contract date of July 29, 1975.

Corn was sold subject to official origin grades guaranteed cool and sweet on arrival at destination.

The corn in question with official origin inspection, dated October 13, 1975, carried a certificate certifying U.S. No. 2 Yellow Corn. The car was placed at destination 14 days later on October 27, 1975, and was refused by the receiver, which reported one compartment out of condition. The car was inspected by a railroad representative and no leaks were found in the roof.

The Alabama Department of Agriculture was called upon to make an official inspection, which resulted in an inspection certificate certifying the top portion of one compartment to be U.S. Sample Grade Yellow Corn, "heating and sour."

The Plaintiff alleged possible substitution of corn in the one compartment by the receiver. There is, however, no evidence to support this. The Plaintiff questioned the weight of 1,230 bushels of corn sold for salvage when an average in the three compartments would have to be about 1,198 bushels each. The Plaintiff further questioned if its best interest was met when salvage was sold at \$1.40 per bushel, versus a sale price of \$2.70 per bushel.

The Decision

The arbitration committee is of the opinion that corn going out of condition with temperatures in the 80s, as evidenced, is quite possible. It also decided that the difference in weight between the salvage corn sold and the estimated bushels in compartments is reasonable.

In light of the evidence furnished, the committee is of the opinion that the Defendant, Continental Grain Company, acted in good faith in handling the settlement.

The committee, therefore, found in favor of the Defendant, Continental Grain Company, and is unanimously in agreement that the claim of the Plaintiff, U. & L. Grain Company, be disallowed.

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

R. J. Martin, Chairman
Martin's Feed Mills Inc., New Paris, Indiana

Gary Marshall
Lansing Grain Company, Lansing, Michigan

John McCulley
Oakville Feed & Grain Inc., Oakville, Iowa