



Arbitration Decision

National Grain and Feed Association

April 21, 1999

Arbitration Case Number 1967

Plaintiff: Tony Solheim, Frankfort, S.D.

Defendant: South Dakota Wheat Growers Association, Aberdeen, S.D.

Findings

The plaintiff, Tony Solheim, by and through his attorney, initiated this arbitration case by letter and complaint dated Dec. 9, 1998, in which he asserted a claim for monetary damage against the defendant, South Dakota Wheat Growers Association, arising out of the delivery of approximately 2,000 bushels of corn in October 1995.

Solheim alleged that the defendant failed to pay for the corn and wrongfully offset the proceeds against a soybean contract existing between the two parties. Solheim sought damages amounting to \$4,160, plus interest, costs and attorney's fees.

The NGFA, acting upon Solheim's complaint, prepared a NGFA contract for arbitration and sent it by letter dated Jan. 6, 1999 to Solheim's attorney¹ for execution and payment of the arbitration service fee. A copy of the current NGFA® *Trade Rules and Arbitration Rules* booklet also was enclosed.

Among other things, the NGFA's Jan. 6, 1999 letter advised Solheim's attorney as follows:

"Please have the contract (for arbitration) signed and witnessed by a responsible officer of your client. Sections 5(c)

and (d) of the Arbitration Rules require that the arbitration service fee and the signed contract be completed by both parties to the dispute and submitted to the National office within fifteen (15) days. The arbitration fee for this proceeding is \$341.60."

The U.S. Postal Service's certified mail receipt² showed that Solheim's counsel received the NGFA's letter on or about Jan. 12, 1999. Nevertheless, as of April 8, 1999, the NGFA had not received the executed contract or the arbitration service fee from either the plaintiff or his attorney.

It is the National Secretary's responsibility to administer the NGFA Arbitration System and to make such procedural decisions as are necessary to carry out the purposes of the NGFA Arbitration Rules. The plaintiff submitted to the jurisdiction of the NGFA Arbitration System by filing the arbitration complaint³. As a party to an arbitration case, the plaintiff had an obligation to comply with the NGFA Arbitration Rules. Yet, the plaintiff failed to abide by the express time limits set forth in Section 5 of the NGFA Arbitration Rules. Therefore, the plaintiff was in default of the NGFA Arbitration Rules.

Order Dismissing Complaint

Therefore, it was ordered that:

◆ The claims set forth in the complaint filed by Tony Solheim against South Dakota Wheat Growers Association were denied in their entirety; and

◆ The plaintiff's complaint was dismissed with prejudice.

Dated: April 8, 1999

National Grain and Feed Association

By: David C. Barrett Jr.

National Secretary

¹ Thomas M. Tobin, Esq., Tonner, Tobin & King, 404 South Lincoln, P.O. Box 1456, Aberdeen, S.D., 57402-1456.

² U.S. Postal Service domestic return receipt article no. Z 476 446 674.

³ While the plaintiff was, and is, not a NGFA member, the NGFA's records show that South Dakota Wheat Growers Association was and is a NGFA Active member.

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