



National Grain and Feed Association Arbitration Decision

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January 30, 2023

CASE NUMBER 2981

PLAINTIFF: CONSOLIDATED GRAIN AND BARGE CO., ST. LOUIS, MO

DEFENDANT: COREY HOLMES, DBA HOLMES FARMS, NEW HOLLAND, IL

FACTUAL AND PROCEDURAL BACKGROUND

The plaintiff, Consolidated Grain and Barge Co. (CGB), requested the entry of a default judgment in the amount of \$214,940.51 against the defendant, Corey Holmes, dba Holmes Farms (Holmes). The default judgment is granted for the reasons set forth below.

CGB submitted an arbitration complaint dated February 18, 2022, to the National Grain and Feed Association (NGFA). The complaint alleged that Holmes failed to perform on contract nos. 0225271 and 0214870 for No. 2 yellow corn.

The contracts were duly executed by both parties. The contracts stated “(RULES TERMS AND CONDITIONS INCLUDING BINDING ARBITRATION SET FORTH ON BACK ARE MADE PART HEREOF)” (emphasis in original).

The contracts further stated under paragraph 1 of the terms and conditions as follows:

Seller and Buyer agree that all disputes and controversies of any nature whatsoever between them with respect to this contract shall be arbitrated according to the Arbitration Rules of the National Grain & Feed Association and that the decision and award determined thereafter shall be final and binding on the Seller and Buyer

Acting upon CGB’s complaint, NGFA prepared an arbitration services contract and submitted it to CGB for execution. By Federal Express dated March 9, 2022, NGFA also sent to Holmes a letter providing notice of these proceedings with copies of CGB’s complaint and attachments, as well as the NGFA Trade Rules and Arbitration Rules. Federal Express confirmed that this mailing to Holmes was delivered on March 14, 2022.

Upon receipt of the duly executed arbitration services contract from CGB, NGFA then sent it with accompanying correspondence to Holmes by Federal Express on March 25, 2022. Federal Express confirmed that this mailing to Holmes was delivered on March 28, 2022.

On June 24, 2022, NGFA sent to Holmes another letter by Federal Express. Federal Express confirmed this mailing was delivered on June 28, 2022. NGFA’s letters of March 25 and June 24, 2022, to Holmes specifically provided notice that Rule 2(E) of the NGFA Arbitration Rules required that the signed contract be returned within fifteen (15) days.

After not receiving any response from Holmes or any indication that a response was forthcoming, NGFA sent yet another notice to Holmes on August 16, 2022, by Federal Express. This notice further specifically stated as follows:

NGFA Arbitration Rules 2(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 Holmes on August 23, 2022.

NGFA has yet to receive an executed arbitration services contract from Holmes, despite the repeated attempts by NGFA to contact Holmes.

DEFAULT JUDGMENT

NGFA established jurisdiction over this matter pursuant to the express terms of the contract and by way of CGB's status as an NGFA active member.

CGB properly and in a timely manner filed its complaint under NGFA Arbitration Rule 2(A). Pursuant to Rule 2(B), NGFA then submitted an arbitration services contract to the parties. Rule 2(D) states that, "Each party must return the completed arbitration services contract within 15 days from the date the party receives it from the NGFA Secretary." CGB properly executed and returned the arbitration services contract. Holmes refused to comply with the NGFA Arbitration Rules and refused to respond to any requests from NGFA for the executed contract.

NGFA Arbitration Rule 2(E) provides for the following:

Where a party fails to execute the arbitration services contract or pay the arbitration services fee, the NGFA Secretary may without further submissions by the parties enter a default judgment or such other relief as the NGFA Secretary deems appropriate.

As it appears that Holmes made a conscious decision to disregard these arbitration proceedings, pursuant to Rule 2(E) of the NGFA Arbitration Rules, the NGFA Secretary finds that entry of default judgment against Holmes is proper and warranted.

NGFA Arbitration Rule 2(E) also sets forth the requirements and conditions under which, "[a]ny party against whom a default judgment has been entered may apply to vacate the default judgment within 15 days of entry of the default judgment."

THE AWARD

THEREFORE, IT IS ORDERED THAT:

1. Consolidated Grain and Barge Co. is awarded judgment against Corey Holmes, dba Holmes Farms for \$214,940.51
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. This award is not intended to preclude the plaintiff from pursuing an additional award for interest, legal fees or costs in a court of law.

Dated: November 11, 2022*

NATIONAL GRAIN AND FEED ASSOCIATION

By: Charles M. Delacruz
NGFA Secretary

* On November 11, 2022, NGFA entered the default judgment against the defendant. The defendant was advised regarding the procedures for applying to vacate the default judgment, but the defendant did not apply to vacate the default judgment.