



# National Grain and Feed Association Arbitration Decision

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June 25, 2024

## CASE NUMBER 3108

**PLAINTIFF: ADM AGRI-INDUSTRIES INC., LLOYDMINSTER, ALBERTA, CANADA**

**DEFENDANT: TRIANGLE H RANCHING, MEADOW LAKE, SASKATCHEWAN, CANADA**

### FACTUAL AND PROCEDURAL BACKGROUND

The plaintiff, ADM Agri-Industries Inc., requested the entry of a default judgment in the amount of 900,169.20 CAD, converted by the plaintiff to equal 707,713.03 USD, against the defendant, Triangle H Ranching. The default judgment is granted for the reasons set forth below.

The plaintiff submitted an arbitration complaint dated January 26, 2023, to the National Grain and Feed Association (NGFA). The complaint alleged that the defendant failed to perform on contract #0638540 for Canola.

The contract was duly executed by the parties and stated under the terms and conditions as follows:

NGFA RULES/ARBITRATION: EXCEPT AS OTHERWISE PROVIDED HEREIN, THIS AGREEMENT SHALL BE SUBJECT TO THE TRADE RULES OF THE NATIONAL GRAIN AND FEED ASSOCIATION ("NGFA"), WHICH ARE INCORPORATED HEREIN. THE PARTIES AGREE THAT THE SOLE REMEDY FOR RESOLUTION OF ANY AND ALL DISAGREEMENTS OR DISPUTES ARISING UNDER OR RELATED TO THIS AGREEMENT SHALL BE THROUGH ARBITRATION PROCEEDINGS BEFORE THE NGFA PURSUANT TO THE NGFA ARBITRATION RULES. THE DECISION AND AWARD DETERMINED THROUGH SUCH ARBITRATION SHALL BE FINAL AND BINDING UPON EACH PARTY. THE ARBITRATION ACT (ALBERTA) DOES NOT APPLY TO THIS AGREEMENT.

Acting upon the plaintiff's complaint, NGFA prepared an arbitration services contract and submitted it to the plaintiff for execution. By USPS Priority Mail International (USPS) dated February 24, 2023, NGFA also sent to the defendant a letter providing notice of these proceedings with copies of the plaintiff's complaint and attachments, as well as the NGFA Trade Rules and Arbitration Rules. USPS confirmed that this mailing to the defendant was delivered on March 21, 2023.

Upon receipt of the duly executed arbitration services contract from the plaintiff, NGFA then sent it with accompanying correspondence to the defendant by USPS on April 28, 2023. USPS confirmed that this mailing to the defendant was delivered on May 17, 2023.

On June 23, 2023, NGFA sent to the defendant another letter by USPS. USPS confirmed this mailing was delivered on July 25, 2023. NGFA's letters of April 28, and June 23, 2023, to the defendant provided notice that Rule 2(E) of the NGFA Arbitration Rules required that the signed arbitration services contract be returned within fifteen (15) days.

After not receiving any response from the defendant, NGFA sent another notice to the defendant on August 18, 2023, by USPS. This notice 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].

USPS confirmed that this mailing was delivered to the defendant on August 31, 2023

On August 29, 2023, the defendant reached out to NGFA by telephone inquiring about the arbitration process. NGFA returned the call and left a voice message. NGFA further attempted to contact the defendant by telephone and email on August 31, 2023. NGFA has not heard further or received an executed arbitration services contract from the defendant.

### **DEFAULT JUDGMENT**

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

The plaintiff filed its complaint in conformity with 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." The plaintiff executed and returned the arbitration services contract. The defendant elected to not comply with the NGFA Arbitration Rules.

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.

Pursuant to Rule 2(E), NGFA finds that entry of default judgment against the defendant is 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." Further, NGFA Arbitration Rule 7 provides that a default judgment issued by NGFA may be appealed under the rules by either party.

### **THE AWARD**

**THEREFORE, IT IS ORDERED THAT:**

1. The plaintiff is awarded judgment against the defendant for \$900,169.20 CAD.

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: October 27, 2023\*

**NATIONAL GRAIN AND FEED ASSOCIATION**

By: Charles M. Delacruz  
NGFA Secretary

\* On October 27, 2023, 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.