



National Grain and Feed Association Arbitration Decision

www.ngfa.org | www.ngfa.org/decisions

1250 I (Eye) Street, N.W., Suite 1003
Washington, DC 20005-3922

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

July 12, 2016

CASE NUMBER 2773

**PLAINTIFF: PARRISH & HEIMBECKER, LTD.
WINNIPEG, MANITOBA, CANADA**

**DEFENDANT: ALLEN AGVENTURES
SWIFT CURRENT, SASKATCHEWAN, CANADA**

FACTUAL AND PROCEDURAL BACKGROUND

The plaintiff, Parrish & Heimbecker, Ltd. (P&H), requested the entry of a default judgment in the amount of 12,561.32 USD (17,696.23 CAD converted at a rate of .71 by the plaintiff) against the defendant, Allen Agventures. The default judgment is granted for the reasons set forth below.

P&H submitted an arbitration complaint on January 6, 2016 to the National Grain and Feed Association (NGFA). The complaint alleged that Allen Agventures failed to perform on contract MJ6063 for 350 metric tons of wheat.

The contract was duly signed and stated under paragraph 12 of the terms and conditions as follows:

Any claim relating to this contract shall be settled by arbitration under the National Grain and Feed Association Arbitration Rules as are in effect at the date of this agreement. The parties agree to submit to arbitration. Judgement upon any arbitration award may be entered in any court or tribunal of competent jurisdiction. ...

Acting upon P&H's complaint, NGFA prepared an arbitration services contract and submitted it to P&H for execution. By Federal Express dated January 19, 2016, NGFA also sent to Allen Agventures a letter providing notice of these proceedings with copies of P&H's complaint and attachments, as well as the NGFA Trade Rules and Arbitration Rules. Federal Express confirmed that this mailing to Allen Agventures was delivered on January 22, 2016.

Upon receipt of the duly executed arbitration services contract from P&H, NGFA then sent it with accompanying correspondence to Allen Agventures by Federal Express on February 19, 2016. Federal Express confirmed that this mailing to Allen Agventures was received on February 26, 2016.

On March 22, 2016, NGFA sent to Allen Agventures another letter by Federal Express. Federal Express confirmed this mailing was delivered on March 30, 2016. NGFA's letters of February 19 and March 22, 2016 to Allen Agventures specifically provided notice that Rule 2(E) of the NGFA Arbitration Rules required that the signed contract be returned within fifteen (15) days.

After still not receiving any response from Allen Agventures, or any indication that a response was forthcoming, NGFA sent yet another notice to Allen Agventures on April 22, 2016 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 Allen Agventures on April 27, 2016.

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

DEFAULT JUDGMENT

NGFA established jurisdiction over this matter pursuant to the express terms of the contract and by way of P&H's status as a NGFA active member.

P&H 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." P&H properly executed and returned the arbitration services contract. Allen Agventures 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 Allen Agventures 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 Allen Agventures 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. Parrish & Heimbecker, Ltd. is awarded judgment against Allen Agventures for 12,561.32 USD (17,696.23 CAD converted at a rate of .71 by the plaintiff).

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: May 23, 2016

NATIONAL GRAIN AND FEED ASSOCIATION

By: Charles M. Delacruz
NGFA Secretary

* On May 23, 2016, 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.