



National Grain and Feed Association Arbitration Decision

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December 12, 2019

CASE NUMBER 2852

**PLAINTIFF: FIELD FARMS MARKETING, LTD.
PETROLIA, ONTARIO, CANADA**

**DEFENDANT: CHRISTOPHER CHARLES KEFFER O/A ROTHSAY AGRI SYSTEMS
MOOREFIELD, ONTARIO, CANADA**

FACTUAL AND PROCEDURAL BACKGROUND

The plaintiff, Field Farms Marketing Ltd. (FFM), requested the entry of a default judgment in the amount of 43,518.30 CAD (32,935.10 USD converted at a rate of 1.3213 by the plaintiff) against the defendant, Christopher Charles Keffer o/a Rothsay Agri Systems (Rothsay). The default judgment is granted for the reasons set forth below.

FFM submitted an arbitration complaint dated February 12, 2019, to the National Grain and Feed Association (NGFA). The complaint alleged that Rothsay failed to pay for delivered grain on contract SCOO17002. The contract was duly signed by both parties.

Acting upon FFM's complaint, NGFA prepared an arbitration services contract and submitted it to Rothsay for execution. By Federal Express dated March 5, 2019, NGFA also sent to Rothsay a letter providing notice of these proceedings with copies of FFM's complaint and attachments, as well as the NGFA Trade Rules and Arbitration Rules. Federal Express confirmed that this mailing to Rothsay was delivered on March 6, 2019.

Upon receipt of the duly executed arbitration services contract from FFM, NGFA then sent it with accompanying correspondence to Rothsay by Federal Express on April 2, 2019. Federal Express confirmed that this mailing to Rothsay was delivered on April 5, 2019.

On April 29, 2019, NGFA sent to Rothsay another letter by Federal Express. Federal Express confirmed this mailing was delivered on March 30, 2019. NGFA's letters of April 2 and April 29, 2019 to Rothsay specifically provided notice that Rule 2(E) of the NGFA Arbitration Rules required that the signed contract be returned within fifteen (15) days.

On September 9, 2019, FFM submitted a duly signed contract between it and Rothsay that stated:

In further consideration for entering into this Contract, the Buyer agrees that NGFA Feed Trade Rules and NGFA Arbitration Rules shall apply to any and all contracts entered between the parties to this Contract, including any previous agreements entered between the Parties, and whether said previous agreements are written or oral.

NGFA sent another notice to Rothsay on September 19, 2019 by Federal Express. This notice further specifically stated as follows:

Attached is another copy of the arbitration services contract and related correspondence previously provided to proceed with this arbitration. Unless we hear otherwise within the next 20 days, we will anticipate that you do not intend to respond and a default judgment may be entered against you, which the plaintiff may enforce in a court of law.

Federal Express confirmed that this mailing was delivered to Rothsay on September 23, 2019.

NGFA has yet to receive an executed arbitration services contract or any other response from Rothsay, despite the repeated attempts by NGFA to contact Rothsay.

DEFAULT JUDGMENT

NGFA established jurisdiction over this matter pursuant to the express terms of the contracts and by way of FFM's status as a NGFA member.

FFM 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." FFM properly executed and returned the arbitration services contract. Rothsay refused to comply with the NGFA Arbitration Rules and participate in the NGFA Arbitration Process.

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 Rothsay 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 Rothsay 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. Field Farms Marketing, Ltd. is awarded judgment against Christopher Charles Keffer o/a Rothsay Agri Systems for 43,518.30 CAD (32, 925.10 USD converted at a rate of 1.3213 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: November 14, 2019

NATIONAL GRAIN AND FEED ASSOCIATION

By: Charles M. Delacruz
NGFA Secretary

* On November 14, 2019, 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.