

Arbitration Decisions

June 21, 1951

CASE NO. 1471

PLAINTIFF - TEMPLE COTTON OIL CO., LITTLE ROCK, ARK.

DEFENDANT - MIDWEST GRAIN CO., KANSAS CITY, MO.

The committee drawn from members of the Arbitration Panel to consider this case was composed of Mr. R. E. Miller, Updike Grain Corporation, Omaha, Nebraska, Chairman; Mr. Ed K. Shepperd, The Cleveland Grain Co., Inc. Indianapolis, Indiana, and Mr. Madison Clement, Clement Grain Co., Waco, Texas.

The decision was unanimous as follows:

It is the committee's opinion that the only thing involved in this case is the shortage on the defendant's contract of October 13, 1950 which reads four cars approximately 6000 bushels. The contract of the broker for the transaction under his contract of October 13 confirms the quantity approximately 6000 bushels. This contract was signed by both the defendant and the plaintiff. This leaves no doubt in the minds of the committee that the amount of the contract was for 6000 bushels. Therefore, the shortage of 1741 bushels is the correct basis for settlement.

There is no evidence to show that the plaintiff ever advised the defendant that he was not shipping the full amount of the contract and that therefore the defendant did not know until the last car was unloaded the amount of the shortage. Therefore, the basis for the settlement of the shortage would be at the market the day after the car was unloaded. From the information the committee has been able to obtain this amount is \$.65 per bushel.

Therefore, the decision is in favor of the defendant and settlement should be based on 1741 bushels at \$.65 per bushel, amount \$1,140.35. In the opinion of the committee other contracts in which there was a dispute as to discounts on off grades does not enter into this case.

The committee was in full accord on the decision in favor of the defendant.

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