

File

Arbitration Decisions

February 27, 1968

ARBITRATION CASE NO. 1503

PLAINTIFF: W. W. Dewey & Sons, Inc., Peoria, Illinois

DEFENDANT: Bartlett and Company, Kansas City, Missouri

The decision of the Arbitration Committee was for the Defendant.

Presented below is the Arbitration Committee's decision which constitutes a report to the membership of the Grain & Feed Dealers National Association as required by Section 8(1) of the Arbitration Rules.

By unanimous agreement the Arbitration Committee in this case (No. 1503) finds for the Defendant, Bartlett and Company, of Kansas City, Missouri, in their dispute with the Plaintiff, W. W. Dewey and Sons, Inc., of Peoria, Illinois.

After a thorough examination of all testimony and exhibits, it was concluded that the "facts" were:

1. Both the Plaintiff and Defendant had exchanged and accepted proper contracts calling for the sale by Plaintiff and the purchase by Defendant of barges of corn in which it was stipulated that settlement would be made on the basis of "official" weights, which in at least one instance was specified by the Plaintiff to be official unload weights.

2. The Defendant in every instance complied with the letter of its contract by providing "official" unload weight certificates.

3. The Plaintiff's loading weights at East Peoria, Illinois, were not "official" by definition of the trading rules of the Grain and Feed Dealers National Association nor by practice of the trade.

4. No contractual reference was made by either the Plaintiff or Defendant as to any obligation to unload the barges on arrival at final destination within a specified period of time nor do any trading rules exist in any form whatsoever which relate to delays in unloading.

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From the facts as outlined, we have had no alternative but to conclude that final and complete settlement of applications on the contracts in question must be made basis the official unload weights provided by the Defendant.

The Committee feels compelled to point out that whereas we are sympathetic with the Plaintiff for the weight losses he sustained allegedly as the result of the deterioration of the grain while awaiting unload, we are also sympathetic with the grade losses and demurrage expenses sustained by the Defendant as the result of these same delays.

This Committee has no doubts or reservations about our decision in this matter from the facts made available to us and feel that the potential penalties to any consignee for delaying the unload of barge grain are adequate and equitable incentive to protect the interests of the shipper in every way over which the consignee has control.

This Arbitration Committee agrees by unanimous vote that the arbitration fees deposited by each litigant should be placed with the general funds of the Association, and the expenses of said arbitration paid out of the general fund.

Arbitration Committee of the
Grain & Feed Dealers National Assn.

/S/ A. H. Douglass, Chairman

W. B. Fox

Kurt Horn

The Defendant, Bartlett and Company, informed the National Secretary by letter, January 18, 1968, that all claims were settled in full, and that the case is closed.