

Arbitration Decisions

October 23, 1975

ARBITRATION CASE NO. 1516

Plaintiff: Consolidated Grain & Barge Company, St. Louis, Missouri
Defendant: Thomas P. Gonzalez Corporation, Los Angeles, California

The case involved the transportation of 6 barges of white corn from a barge loading point at Buffalo Island, Missouri, to an ultimate unloading destination at Brownsville, Texas.

The Plaintiff (CGBC) acting as a carrier only, claimed the Defendant (TPGC) owed them \$24,065.51 covering 4 separate areas of dispute: (1) Minimum tonnage; (2) Demurrage; (3) Overcharge of cargo damage claim; and (4) Interest.

TPGC, while denying CGBC's charge, became a counterclaimant by charging CGBC owed them \$26,754.73 in loss of cargo in transit.

The Arbitration Committee agreed that the 5 major points of dispute should be reviewed and judged on an individual basis as follows:

Minimum Freight

CGBC claimed \$7,909.48 was due them in minimum freight. CGBC's freight confirmation, copies of which were signed by Thomas P. Gonzalez, stated that any matters not specifically covered would be governed by WFB #7. WFB #7 clearly established loading minimums of 1300 and 1500 tons based on barge capacities. This was an accepted trade practice unless otherwise agreed upon.

The Arbitration Committee unanimously found in favor of the Plaintiff, CGBC, that TPGC owes them \$7,909.48 in minimum freight.

Demurrage

CGBC claimed demurrage in the amount of \$9,310.00 discounting TPGC claim of an embargo in the Houston Port.

The embargo in the Houston Port did not relate to barge movement and was irrelevant to the case.

The exchange of wires confirming the re-consignment of the barges from Houston to Brownsville clearly stated the terms relating to demurrage. The terms were accepted by TPGC. The Committee unanimously found TPGC owes the Plaintiff the full claimed amount of \$9,310.00.

Overcharge of Cargo Damage Claim

It had been established that barge T-2050 suffered damage en route necessitating the removal of an estimated 4248 bu. of cargo at Brownsville. According to evidence presented, the damaged cargo was placed in a separate identified bin. Any loss involved would be the responsibility of the carrier.

While the quality of the white corn originally loaded in T-2050 had not been established, enough evidence was available for the Committee to unanimously find in favor of the Defendant TPGC that they do not owe CGBC \$4,248.00 as charged.

Loss of Cargo

TPGC, as a Counterclaimant denied owing CGBC anything and claimed instead they, TPGC, are due \$26,754.73 from CGBC on the basis of delivering 288.15 short tons more at \$2.60 per bu. (\$92.85 per ton) than was unloaded at Brownsville, Texas.

While the shrink appeared excessive even after adjusting for the damaged cargo which TPGC failed to do, there is not sufficient evidence to hold the carrier responsible.

A majority of the Committee found in favor of the Counter Defendant, CGBC. They do not owe TPGC \$26,754.73 or any part thereof.

Interest

CGBC claimed interest due them in the amount of \$2,598.03 covering all of their claims which totaled \$21,467.48.

A majority of the Committee felt the circumstances did not warrant awarding interest to the Plaintiff, CGBC, and therefore found in favor of the Defendant, TPGC.

Arbitration Committee of the National Grain and Feed Association

/S/ Morris Champion, Chairman /S/ Paul H. Bimmerman, Jr. /S/ William Dewey, Sr.
Central Soya Co., Inc. Balfour Guthrie & Co. Ltd. Cook Inc.

March 14, 1975

Decision of the Arbitration Appeals Committee

The Defendant appealed the case to the Arbitration Appeals Committee.

The Arbitration Appeals Committee reviewed the findings of the Arbitration Committee of NGFA in the above case by treating each major point of dispute separately as did the Arbitration Committee:

- Minimum Freight - Affirmed the findings of the Arbitration Committee
- Demurrage - Affirmed the findings of the Arbitration Committee
- Overcharge of Claim - Affirmed the findings of the Arbitration Committee
- Loss of Cargo - Affirmed the findings of the Arbitration Committee
- Interest - Reversed the findings of the Arbitration Committee and finds Defendant owes interest on the amounts found to be owing Plaintiff according to calculations below:

Minimum Freight

<u>Amount</u>	<u>Invoice Date</u>	<u>Days less 15 to 7/1/75</u>	<u>Average Prime Rate</u>	<u>Interest Due</u>
\$7,909.48	12/06/73	557	9.96%	\$1,202.18

Demurrage

<u>Amount</u>	<u>Date Plaintiff Paid Demurrage</u>	<u>Days to 7/1/75</u>	<u>Average Prime Rate</u>	<u>Interest Due</u>
\$9,310.00	04/18/74	439	10.126%	\$1,133.86

Total Interest due Plaintiff \$2,336.04

Arbitration Appeals Committee of the National Grain and Feed Association

/S/ Fredric H. Corrigan, Chairman /S/ Madison Clement /S/ Bruce Cottier
Peavey Company Clement Grain Co. Bartlett & Company

/S/ Charles Holmquist /S/ H. V. Nootbaar
Holmquist Elevator Co. H. V. Nootbaar & Company

July 11, 1975