



NATIONAL GRAIN AND FEED ASSOCIATION

Arbitration Decisions

June 27, 1978

ARBITRATION CASE NUMBER 1538

PLAINTIFF: Bunge Corporation

DEFENDANT: Marion Williams

Statement of Case

Williams contracted on or about July 3, 1972 to sell 10,000 bushels of No. 1 yellow soybeans to Bunge at a price of \$3.15 per bushel, to be delivered during October and November, 1972. The market price of soybeans rose considerably after that date. Weather conditions made harvesting extremely difficult during the delivery period. Various conversations were had between Williams and representatives of Bunge Corporation. Williams claims he asked Bunge to buy out his contract. No writing has been produced to demonstrate this fact. Bunge's representatives deny this occurred. Williams claims he repudiated his contract in November of 1972. Bunge's representatives deny this. Bunge sent Williams a letter, dated November 27, 1972, which Williams received, extending the contract for sixty days. The extension was possible under the terms of the contract Williams signed. Williams did not reply to this letter. No deliveries of soybeans under the contract were made by Williams to Bunge. Williams claims Bunge refused to accept delivery of soybeans under the contract terms. Bunge denies this occurred. On January 6, 1973, Williams informed Bunge he would not deliver soybeans under the contract. On January 25, 1973, Bunge sent Williams a letter confirming this conversation and requesting payment of \$10,800.00, representing the balance of 10,000 bushels of soybeans due under the contract at the market price of \$4.23 per bushel as of January 6, 1973, less the contract price of \$3.15 per bushel. This was done in the belief that Williams had repudiated his contract as of January 6, 1973.

Decision

The committee finds for the Plaintiff, Bunge Corporation, in the amount of \$10,800.00. The committee discounts charges and counter-charges made in contradictory affidavits drawn up years after the events in question which are not supported by writings made at the time of the events. Therefore, the committee finds that Williams did not ask representatives of Bunge to buy out the contract during October or November. The committee finds that Williams did not repudiate his contract at that time. The committee considers Bunge's letter of January 25, 1973, to be evidence of Bunge's acceptance of Williams' repudiation of the contract as of January 6, 1973. The committee finds that Williams did repudiate the contract as of January 6, 1973. The measure of damages is therefore the amount of beans not delivered under the contract multiplied by the market price as of January 6, 1973, less the same amount of beans multiplied by the contract price.

-OVER-

Award

This committee, after hearing this case upon the Plaintiff's argument, the Defendant's argument, the Plaintiff's rebuttal, and the Defendant's surrebuttal, all of which were submitted to the committee in writing, finds for the Plaintiff, Bunge Corporation, in the amount of \$10,800.00.

Members of the Arbitration Committee:

/s/ K.D. Peterson, Chairman
Landmark, Inc.
Columbus, Ohio

/s/ Frank T. Heffelfinger
Peavey Company
Minneapolis, Minnesota

/s/ Dewayne Bloem
Alden Cooperative Elevator
Alden, Iowa

DECISION OF ARBITRATION APPEALS COMMITTEE

Arbitration Case Number 1538

PLAINTIFF: Bunge Corporation

DEFENDANT: Marion Williams

The Arbitration Appeals Committee by unanimous opinion upheld the decision rendered by the Arbitration Committee.

/s/ H.V. Nootbaar, Chairman
H.V. Nootbaar & Company
Capistrano Beach, California

/s/ Madison Clement
Clement Grain Company
Waco, Texas

/s/ Bruce O. Cottier
Bartlett & Company
Kansas City, Missouri

/s/ Charles H. Holmquist
Holmquist Elevator Company
Omaha, Nebraska

/s/ Clayton W. Johnson
Midstates Terminals, Inc.
Toledo, Ohio