National Grain and Feed Association

Arbitration Decisions

August 20, 1987

Arbitration Case Number 1634

Plaintiff:
Artfer Inc., New Orleans, La.

Defendant:
Garnac Grain Co. Inc., Kansas City, Mo.

Statement of the Case

The issue in this case concerned the application of last-day barges.

The plaintiff, Artfer Inc., attempted to apply two last-day corn barges to Garnac via a telephone call at a documented time of 10:58 a.m. on Dec. 2, 1985. After reaching Garnac, it was conveyed by Artfer that the purpose of the call involved "last-day corn barges."

Garnac did not contest this claim. Instead Garnac contended that its corn traders were busy at that time and it was after 11 a.m. before someone could receive Artfer's call. Garnac also referenced Grain Trade Rules 7(b)(e) and (f) in contending that it was too late for its corn trader to accept application.

The Decision

In this case, the arbitration committee decided that a documented time of 10:58 a.m. which Garnac did not contest, clearly was sufficient time to allow application of last-day barges in accordance with Grain Trade Rule 7(b)(e) and (f). Further, the panel believed the receiving party had an obligation to make haste and ensure that a qualified person was present to receive the applications in a timely manner.

The issue of damages also was contested by the two parties. The panel believed Garnac's suggestion that Artfer did not try to mitigate damages was erroneous. Artfer, after Garnac rejected the initial application(s) properly notified Garnac promptly of its intention to arbitrate and sell out the barges involved in the dispute. The panel believed a significant factor in this case was the fact these two barges already were "iced in" in Savage, Minn., and that it was quite possible the market value — albeit severe to Ohio or Illinois River origins — was not quantifiable at that time.

Further, Garnac's later claim that Artfer did not mitigate damages was misleading in that Artfer did telex Garnac on Dec. 18, 1985 in an attempt to settle the issue. Whether the level suggested by Artfer was at the market was not clarified. At that time Garnac offered to accept applications from Ohio or Illinois River origins, which would have been at a premium to the "iced-in" barges. At this point of rejection to Artfer's claim, we believed that Artfer was correct in retaining the barges until they could be "moved" and more defined market values established.

Therefore, the arbitration committee awarded the plaintiff, Artfer Inc., damages for the $17,123.41 claimed, plus interest.

Submitted with the consent and approval of the arbitration committee, whose names are listed below:

Robert E. Newborn
A. E. Staley Manufacturing Company
Louden, Tenn.

Robert H. Neal
Cargill Inc.
Peoria, Ill.

Dennis Thornburg
Consolidated Grain
and Barge Co. Inc.
St. Louis, Mo.