

Final Oct 21

ARBITRATION COMMITTEE FINDINGS

Arbitration Case No. 1505

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September 5, 1969

SEP 10 1969

Mr. Raymond B. Bohnsack
 Secretary-Treasurer
 Grain and Feed Dealers National Association
 725 15th St. N. W.
 Washington, D. C. 20005

Dear Mr. Bohnsack:

By unanimous agreement the Arbitration Committee in this case ¹⁵⁰⁵ (~~No. 1505~~) finds for the Defendant, Archer Daniels Midland Company, of Minneapolis, Minnesota, in their dispute with the Plaintiff, Peavey Company, of Alton, Illinois.

This dispute involved the sale of one barge of corn basis "interior official grades" on December 5, 1967, by the defendant to the plaintiff, and the rightful applicability of two separate inspection certificates on the same barge dated November 29, 1967, and December 4, 1967, respectively.

Barge trading rule 7 states (in part) "unless otherwise specified, no loading or in transit certificate of inspection predating the date of the contract by more than three calendar days, nor predating the date of notification of application of said barge by more than seven calendar days, shall be acceptable on contract."

From the testimony and exhibits submitted by both the plaintiff and the defendant it is completely clear that the plaintiff was buying and the defendant was selling basis the "interior official grade" dated December 4, 1967, and NOT the "interior official grade" dated November 29, 1967. Both refer to the December 4, 1967, inspection either by date or by numerical grade and factors as the basis for the contract dated December 5, 1967. Referring to Barge Trading Rule 7 (as quoted, in part, above) it is therefore evident that nothing was "otherwise specified" by either party and the inspection certificate dated December 4, 1967, was not only applicable but was the only certificate of the two in question which was applicable under the rule.

The plaintiff, in his testimony, contended that the term "interior official inspection" implied first official inspection and that it is not the prerogative of the shipper to regrade a barge in transit and either choose the best of the two grades or even, of necessity, use the second grade. This arbitration committee feels quite strongly that nothing in the

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barge trading rules nor in general trade practice gives a "first official inspection" implication to the term "interior official inspection." We further feel that the shipper not only has the prerogative, but indeed, the obligation, to regrade a barge in transit as necessary to qualify the date of inspection of said barge for application on contract under the rules.

~~Sincerely yours,~~
Arbitration Committee of the Grain
and Feed Dealers National Association

(H) *A. H. Douglass*
A. H. Douglass - Chairman
M. E. Ragen
C. E. Wilcox

AHD/dq