



June 10, 2021

CASE NUMBER 2861

**PLAINTIFF: THE FARMERS ELEVATOR COMPANY OF HONEYFORD
NORTH DAKOTA
HONEYFORD, ND**

**DEFENDANT: NORTHERN PLAINS GRAIN INSPECTION SERVICE, INC.
GRAND FORKS, ND**

STATEMENT OF THE CASE

This case involves The Farmers Elevator Company of Honeyford, ND (Honeyford) and Northern Plains Grain Inspections Service, Inc. (NPGIS) in Grand Forks, ND.

Honeyford employed NPGIS to inspect and seal rail hopper cars on a 25-car shipment of Northern Spring Wheat to Clifton, NJ. Honeyford and NPGIS have a history of this type of arrangement. The arbitrators determined that Honeyford was charged and paid for those services although no contract or agreement between the parties was referred to in the arguments presented in this case by either party.

Upon arrival of the 25-car shipment in Clifton, two of the cars were found to have top hatches that were not sealed. The buyer of the grain then rejected the two cars as it could not be proven that the contents of the cars had not been tampered with. Honeyford claims that NPGIS should be responsible for the roundtrip freight costs and labor incurred for unloading and cleaning the two cars.

The arbitrators noted the following sequence of events as particularly relevant to this dispute:

- July 10, 2018 – Honeyford made a sale to its buyer for 83,500 bushels of Northern Spring Wheat under contract number 0976557.
- Honeyford contacted NPGIS and requested that NPGIS inspect and seal the hopper cars that were to ship under contract 0976557.
- August 2018 – the cars were delivered to the ultimate buyer in Clifton, NJ.
- On or about August 18, 2018 – Honeyford’s manager received a phone call from its buyer notifying Honeyford that the two cars (identified by numbers SOO121725 and SOO121743) were rejected because the top hatches were not sealed.
- August 20, 2018 – Honeyford’s buyer notified Honeyford by email of the rejection of the two cars.

Honeyford argues that NPGIS was negligent for not sealing the top hatches on the two cars that were rejected and that NPGIS should be responsible for the roundtrip freight and labor costs incurred for

unloading and cleaning the cars. Honeyford contends that based upon the parties' past working arrangements that NPGIS is responsible for sealing the cars.

NPGIS denies any liability or negligence on the basis that there is no contract dictating that NPGIS is responsible for sealing rail cars. Furthermore, NPGIS argues that there is nothing in the NGFA Grain Trade Rules that requires them to provide a seal for inspected hopper cars. NPGIS referred to NGFA Grain Trade Rules 11, 12, and 13 in its argument that NPGIS has no responsibilities to seal rail cars.

THE DECISION

The arbitration committee's conclusion is that NPGIS is not responsible for any monetary or other damages. While NPGIS has had a history of sealing rail cars as they were inspected for Honeyford, and NPGIS has received payment for performing that service, there is no agreement or contract, defining the parties' expectations for these procedures or services. No documents, such as load order instructions, were provided by Honeyford with instructions or expectations for NPGIS to follow. No supporting document was provided in this case by Honeyford that would support the expectation that NPGIS would be responsible for sealing the cars. No indication of elevator loading procedures were produced by Honeyford to demonstrate that the cars were or were not loaded pursuant to any established policy.

We believe that throughout most customary business transactions involving loading rail cars with grain for shipment, the ultimate burden of sealing rail cars before shipment remains with the shipper absent an express agreement to the contrary.

THE AWARD

No damages are awarded in this case.

Decided: April 23, 2021

SUBMITTED WITH THE UNANIMOUS CONSENT OF THE ARBITRATORS, WHOSE NAMES APPEAR BELOW:

Bart Moseman, *Chairman*
General Manager
Farmer's Coop Elevator
Hemingford, NE

John Lampert
Vice President
Parrish & Heimbecker
Winnipeg, Manitoba, Canada

Rick Romer
Director Risk Management – Global Corn
North America Grain Marketing
CHS Inc.
Inver Grove Heights, MN