

PARLOUR GAMES

General Information

Background

Pat and Michael Giles are dairy farmers in Northern Ireland, with a herd of some 300 cows. Three years ago they decided to change their milking parlour, a traditional 'in-line' parlour which needed three people in attendance for up to four hours morning and evening, for a modern rotary parlour, which needed only one person in attendance for up to three hours for both milking sessions. They obtained quotations from two mainland manufacturers and, after some deliberation, picked 'Auto-Milk (UK) Ltd' as their preferred supplier for a contract sum of £235,000 fully installed (foundations, housing, rotary milker, hardstandings and drains etc.). However, just as they were about to place the order, a French-based company OLait approached the Giles and offered to provide the same facility for a discounted price of £185,000. They wanted to break into the UK and Irish market and felt that the Giles's farm to be ideally placed as a show-case for other prospective purchasers. The contract provided for the Giles's to 'showcase' their installation for OLait prospective customers.

Pat and Michael accepted the OLait proposal with a commencement in eight weeks and completion thirteen weeks thereafter. A tight programme but the Giles were delighted with the whole package and looked forward to their new state of the art milking parlour operating in six months time.

It was in fact completed within six months (just two years ago), but not to the Giles's delight. There were problems from the start with the builder that OLait had found to do the foundations, drains and the pit for the rotary milker. It became very obvious that the builder wasn't (a builder) and had no conception of accuracy and quality. The place was a mess, there was no supervision (OLait had no local agent at the time to supervise the works) and the Giles were constantly on the phone to OLait's French office complaining about the quality of work. In the end, the builder carried out numerous repairs and alterations and the housing (shed) was erected (after several anchor bolts were cut out and repositioned) and the rotary parlour installed.

The first problem was that the falls to the rotary pit were incorrect. The effluent from the milking stalls did not fully drain away and there was a real danger that the milking equipment would become contaminated. Indeed that was one contained outbreak of mastitis just a few months after the parlour was commissioned although the cause was not really established. The next problem was that, after a few weeks, the rotary platform started grinding on the perimeter walls of the pit and the builder had to cut a groove in the walls because the pit walls were found not to be a true circle. In grinding the walls out it became obvious that there was little or no reinforcement which meant that the walls had no structural integrity and would deteriorate quickly.

Next, the rough finish to the concrete paved areas was causing some cows to become lame. The lameness meant that they could not easily exit the stall at the completion of the cycle and there were several instances of cows becoming trapped and crushed because the platform continued to rotate even though the cow had not fully exited. Several cows had to be slaughtered as a result.

The dispute

The Giles withheld the final payment of £50,000 which was due to OLait on satisfactory commissioning. OLait responded firstly by refusing to attend to any further call-outs and then, when their demands for the balance went unheeded, by suing for the balance (plus interest).

After a year of misery, the Giles went to their solicitor and counterclaimed for the return of money paid (£135,000) and damages for lost cows and other costs, amounting to a total of £200,000, built up as follows:

Return of monies paid	135,000
Culled cows 15	30,000
Veterinary bills	5,000
Temporary milking facilities	<u>30,000</u> (continuing)
Total	£200,000

Plus costs and interest.

Their lawyer has also mentioned that there will be an additional claim for additional labour but this has not been quantified.

The current situation is that the Giles are using a temporary in-line parlour (the original having been demolished to make space for the rotary parlour) and the rotary parlour lies unused.

Attending the Mediation

Either Pat or Michael Giles (the other had to stay on the farm to do the milking but is available by mobile phone if needed)

Their lawyer

Jean Lacourt (Marketing Director of OLait)

Their UK lawyer

Mediator

David Richbell

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