

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

Nos. 98-3965/4082

V.C. Howard Hay Co., Inc.	*	
	*	
Appellant/Cross-Appellee,	*	
	*	Appeals from the United States
v.	*	District Court for the
	*	District of Nebraska.
Caribou Farms, LLC,	*	
	*	[UNPUBLISHED]
Appellee/Cross-Appellant.	*	

Submitted: April 17, 2000
Filed: April 24, 2000

Before RICHARD S. ARNOLD, BOWMAN, and BEAM, Circuit Judges.

PER CURIAM.

In this diversity action, V.C. Howard Hay Co., Inc. (hereinafter Howard Hay) appeals the district court's¹ denial of consequential damages following a bench trial. Caribou Farms, LLC (hereinafter Caribou) cross-appeals, arguing that there was not a meeting of the minds to create a binding contract. We affirm.

¹The Honorable Richard G. Kopf, United States District Judge for the District of Nebraska.

This dispute arose out of Howard Hay's purchase of second-cutting alfalfa hay from Caribou. Howard Hay alleged a breach of contract.

We conclude the district court properly found that there was a binding contract concerning the second-cutting hay after weighing the conflicting testimony. See Jenson v. Eveleth Taconite Co., 130 F.3d 1287, 1299 (8th Cir. 1997); Gibb v. Citicorp Mortgage, Inc., 518 N.W.2d 910, 919 (Neb. 1994); Overman v. Brown, 372 N.W.2d 102, 105 (Neb. 1985). We also conclude the district court properly found that Howard Hay was not entitled to consequential damages based on lost profits. See American Rd. Equip. Co. v. Extrusions, Inc., 29 F.3d 341, 344 n.2 (8th Cir. 1994); Laird v. Scribner Coop., Inc., 466 N.W.2d 798, 805 (Neb. 1991).

Accordingly, we affirm.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.