

Award No. 5  
Case No. 7

Public Law Board No. 3794

PARTIES  
TO  
DISPUTE:

Brotherhood of Maintenance of Way Employees  
and  
Seaboard System Railroad

STATEMENT  
OF  
CLAIM:

Appeal from 30-day suspension imposed on Trackman  
J. W. Fortenberry.

FINDINGS:

Claimant was suspended by Carrier on the basis of  
findings that he and another employee, L. Walton,  
were involved in a physical altercation while at  
work.

The record indicates that as the argument developed,  
Walton struck claimant with a shovel and claimant retreated and then  
picked up a rock and hurled it at Walton. Claimant then was pursued  
by Walton and the two men wrestled on the ground for a few minutes.


Even if Walton had been the aggressor, and that  
is not clear, claimant was not acting purely in self-defense when he  
threw the rock. There is no basis for disturbing Carrier's decision.

AWARD:

Claim denied.

Adopted at Jacksonville, Florida, May 30, 1985.

  
Harold M. Weston, Chairman

  
Carrier Member

  
Employee Member