

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