

Seven Tests of Just Cause

A basic principle underlying most disciplinary procedures is that management must have "just cause" for imposing the discipline. This standard is often written into union contracts or read into them by arbitrators.

In 1964, Arbitrator Carroll Daugherty enumerated a list of what has come to be called the "Seven Tests of Just Cause." Since that time, these "tests" have been used as a guide for analyzing whether or not due process was used in disciplining an employee.

One

Was the employee adequately warned of the consequences of his/her conduct?

Management must communicate work rules and consequences for noncompliance. The warning may be given orally or in printed form. Exceptions to this rule are often made for such serious offenses as insubordination, drinking or taking drugs on the job, or stealing the employer's property.

Two

Was the employer's rule or order reasonably related to efficient or safe operations on the job?

While work rules should be "reasonably related" to the organization's operations, an employee must generally follow the "obey now, grieve later" principle. Disobeying any rule may be cause for discipline (based on insubordination) unless the rule or order is illegal or unsafe.

Three

Did management investigate before administering the discipline?

Management is required to conduct a thorough investigation of the facts and evidence before making a decision to administer discipline. This investigation should include listening to the employee's "side of the story."

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Four

Was the investigation fair and objective?

It is important that management conduct its investigation in a fair, impartial and nondiscriminatory manner – in a way that it is clear that results were not predetermined.

Five

Did the investigation produce substantial evidence of proof of guilt?

It is not required that the evidence be preponderant, conclusive, or even “beyond a reasonable doubt.” But substantial evidence or proof of guilt must be found to show that the employee violated the work rule, standard or order.

Six

Were the rules, orders, and penalties applied evenhandedly and without discrimination?

Rules, orders and penalties should be applied consistently and equitably to all employees in similar situations. Also, if enforcement has been lax in the past, management cannot suddenly reverse its course and begin to crack down without first warning employees of its intent.

Seven

Was the penalty reasonably related to the seriousness of the offense and the past record?

Does the “punishment fit the crime?” That is, minor and/or first offenses should result in less severe discipline than major and/or repeated offenses. The degree of discipline can also relate to the seriousness of the proven offense and the employee’s record of service.