

Just What is Just Cause?

While the interpretation of what is “just cause” necessarily varies from case to case, one arbitrator¹ has listed these seven tests for determining whether an employer had *just cause* for disciplining an employee. A “no” answer to *any one* of the following questions would indicate that the employer’s actions were arbitrary, capricious, unreasonable, or a discriminatory act and, therefore, without *just cause*.

1. Was the employee adequately warned of the consequences of his/her conduct? The warning may be given orally or in printed form. An exception may be made for certain conduct that is so serious the employee is expected to know it will be punishable, such as insubordination, coming to work drunk, drinking on the job or stealing district property.
2. Was the district's rule or order reasonably related to efficient and safe operations?
3. Did management investigate before administering the discipline? The investigation normally should be made before the decision to discipline is made. Where immediate action is required, however, the best course is to suspend the employee pending investigation.
4. Was the investigation fair and objective?
5. Did the investigation produce substantial evidence or proof of guilt? It is not required that the evidence be preponderant, conclusive, or “beyond a reasonable doubt,” except where the alleged misconduct is of such a criminal or reprehensible nature as to stigmatize the employee and seriously impair his/her chances for future employment.
6. Were the rules, orders and penalties applied evenhandedly and without discrimination? If enforcement has been lax in the past, management can't suddenly reverse its course and begin to crack down without first warning employees of its intent.
7. Was the penalty reasonably related to the seriousness of the offense and past record? If employee “A's” past record is significantly better than that of employee “B,” the district properly may give “A” a lighter punishment than “B” for the same offense.

Other arbitrators have used different definitions of *just cause* including:

- Common sense, knowledge of performance standards, and understanding of disciplinary criteria;
- Proof of misconduct and fairness of penalty;
- Investigation, fact finding, and weighing of the circumstances;
- Proof of misconduct, evenhanded penalties, and consideration of individual circumstances.

¹Carroll R. Dugerty in *Enterprise Wire Co. and Enterprise Independent Union*, 46 LA 359 (1966) found that few, if any, collective bargaining agreements contain a definition of *just cause*. He developed a definition in the form of a set of criteria or guidelines that could be applied to any set of circumstances.