

SEVEN TESTS OF JUST CAUSE

1) PRIOR NOTICE

- Did management inform grievant about the rule and penalty for violating it?**

The notice of a rule may be given orally or in writing. There are exceptions for certain types of conduct so serious (insubordination, coming to work drunk, or stealing company property) employees are expected to know the conduct could result in discipline.

2) REASONABLE RULE

- Is management's rule reasonable?**

Reasonable rules serve a practical purpose by being related to maintaining safe and efficient operations and are uniformly and unbiasedly enforced.

3) ADEQUATE INVESTIGATION

- Did management conduct a complete investigation before imposing discipline?**

Normally, the employer's investigation should be conducted before the decision to impose discipline is made and the employer should have talked to all witnesses and the worker being disciplined and reviewed all relevant evidence.

4) FAIR INVESTIGATION

- Was management's investigation fair and objective?**

The employer's investigation should have been timely without significant delay from when the infraction occurred. Again, the employer should have considered all evidence and talk with everyone involved.

5) SUFFICIENT PROOF

- Did management's investigation produce substantial evidence or proof of guilt?**

The employer's conclusions should be clearly supported by substantial evidence. Conclusions based on opinions, speculation, hunches, gut feelings, and assumptions are not enough.

6) EQUAL TREATMENT

- Did management apply rules, orders, and penalties evenhandedly and without discrimination?**

The employer should be consistently holding all workers accountable and imposing similar discipline on similarly situated (similar work performance and disciplinary records) workers.

7) FITTING PENALTY

- Was the penalty appropriate given the offense and the grievant's work record?**

The employer should be proposing discipline reasonably related to the seriousness of the conduct, the worker's length of service and record, and consistent with prior discipline imposed on similarly situated workers.

Recommended Resource: Just Cause: A Union Guide to Winning Discipline Cases by Robert M. Schwartz