

SEVEN TESTS FOR JUST CAUSE

Identified by Arbitrator Carroll Daugherty in Enterprise Wire Company and Enterprise Independent Union, 46 LA 359

1. Was the worker given advance warning of the probable consequences of his conduct?
 - a. Is the rule or standard that has been violated published?
 - b. Is it posted somewhere?
 - c. Has the employee received a copy of the rule or performance standard?
 - d. Is the rule or standard stated in easy to understand wording
 - e. Has the employee been warned previously (coaching or discipline)
2. Was the controlling rule, order or standard reasonably related to efficient and safe operations?
3. Was the alleged violation of the rule or order fully investigated before discipline?
 - a. Consider a joint investigation with the union
 - b. Involves interviewing others, reviewing documents
4. Was the investigation fair and objective
5. Did the investigation uncover substantial proof of guilt
6. Was the employer's treatment even-handed and non-discriminatory?
7. Was the disciplinary action reasonable related to the worker's records and the gravity of the offense?

Factors to Consider for Both 6 and 7

- a. Seriousness of the infraction
- b. Employee's past coaching, discipline
- c. Employee's length of service
- d. Employee's total performance record
- e. Unusual mitigating circumstances
- f. How does it compare with what has been done in other similar circumstances; will this employee be receiving the same discipline as others who violated this rule or standard? If not, can you justify why?
- g. Does this employee have the worst record of all employees on violation of this rule, standard?