

Just Cause means that management must have a reason ("cause") for disciplining a worker and it has to be fair ("just"). Most contracts use the terms "just," "fair," or "proper" cause. Usually it is in the contract section on Discipline. Even if the contract does not have this language, the worker can still argue that the Just Cause Tests were not met. Most union contracts have arbitration (presenting an issue to a neutral third person who makes a decision that everyone must accept) when the boss and workers can't agree. Usually, arbitrators use these 7 rules, or tests, when deciding discipline cases. Management has to follow ALL these rules for the discipline to be considered fair. Sometimes, management didn't follow one of the tests and that can be used to get them to reduce the discipline.

The Seven Tests for Just Cause in Discipline

1. *Did the worker know what would happen if he broke the rule?* There has to be a warning, including saying what will happen if the rule is broken. It can be announced or in writing. Often, a boss puts up with something for a long time and then suddenly punishes someone for breaking the rule – that's not usually considered reasonable. Some rules are so obvious that workers are expected to know that they will be in big trouble, even without a warning from the boss (such as drinking at work, stealing, or refusing direct orders).
2. *Is the rule important to safe and efficient operations?* The more important a rule is, the more reasonable it is to discipline a worker for breaking it.
3. *Did management investigate before disciplining the worker?* When management disciplines a worker and THEN investigates, it looks like they are looking for information to explain what they already did. Bosses are allowed to suspend or fire a worker immediately in serious situations -- but they should bring the worker back, with back pay, if the investigation shows that the worker is not guilty or there are other facts to consider.
4. *Was management fair and objective when they investigated?* If the boss only looks for information that will prove that a worker is guilty, it's not a fair investigation. Examples include if they refuse to interview witnesses who will back up the worker's story or only interview supervisors.
5. *Did the investigation show substantial evidence or proof of guilt?* Unlike criminal court, the boss doesn't have to prove his case "beyond reasonable doubt." But, bosses must have real evidence, not just guesses. The boss can't say that the worker has to prove she is innocent – the boss has to show proof of her guilt.

6. *Were rules and orders the same for everyone and the penalty for breaking rules the same?* If workers were not treated the same, it is harder for a boss to defend disciplining a worker under a rule. This is one of the most common ways that bosses are unfair - that certain "picks" get treated better, not expected to meet the same production and not disciplined the same for breaking a rule. Bosses can announce that they have a new rule, or are starting to enforce an old rule - so long as they hold everyone to the rule.

7. *Does the discipline consider how serious the situation is and the worker's past record.* A worker with a good work history, seniority, and no record of problems should get less discipline, even for the same offense. The kind of rule which was broken should be considered in the level of discipline. For example, a mistake that put other workers in danger is more serious than a paperwork mistake