



UNITED STAFF UNION

**THE SEVEN
STEPS TO
JUST CAUSE**



DISCIPLINE CASES



Discipline is a formal penalty imposed by management. Management usually cites one of two reasons for taking disciplinary action:



It believes the employee is guilty of misconduct-legitimate management directives, rules, or policies

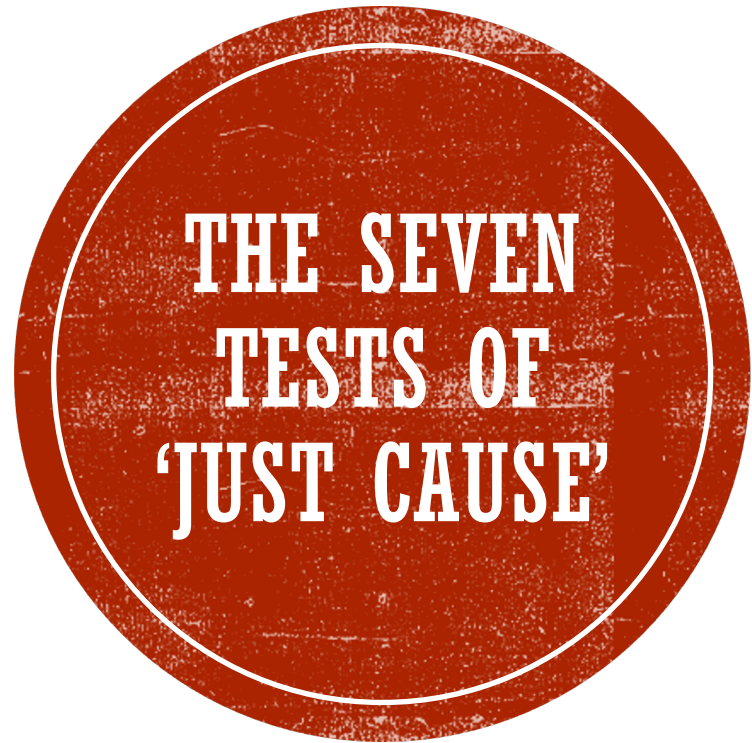


It believes the employee is failing to perform job functions to the standards of the workplace.



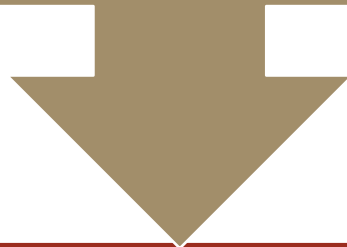
The idea is that discipline should not be punitive in nature, but corrective- designed to correct behavior with the goal of encouraging the employee to carry out their assigned job duties. Management has the burden of proof in discipline cases.





**THE SEVEN
TESTS OF
'JUST CAUSE'**

The basic underlying principle in discipline cases is that management must have “just cause” for imposing the disciplinary action.



Common test for determining whether just cause exists was developed by arbitrator Carroll Daugherty in a 1996 case.



To meet the standard management must be able to answer “yes” to the following seven questions:



1. Was the employee adequately warned of the probable consequences of their conduct?



2. Was the employer’s rule or order reasonably related to the efficient and safe operation of the job function?



3. Did management investigate before administering discipline?



4. Was management’s investigation fair and objective?

LET’S EXAMINE THE “SEVEN TESTS OF JUST CAUSE”:



SEVEN TESTS CONTINUED...

5. Did the investigation produce substantial evidence or proof that the employee was guilty of the offense?

6. Has the employer applied its rules, orders, and penalties evenly and without discrimination?

7. Was the amount of discipline reasonably related to the seriousness of the offense and the employee's past service and record? Did the "punishment fit the crime"?



REMEMBER...

A “No” to one or more of the questions indicates management’s action was arbitrary, capricious and/or discriminatory in one or more respects.

We can argue that management did not have just cause to issue discipline.



REMOVING DISCIPLINE:

Take a look at page 7 and 8 of the Professional Contract:

How soon after a disciplinary action has been in the member's personnel file should the member request the discipline be removed?

