

## SEVEN KEY STEPS FOR ESTABLISHING 'JUST CAUSE'

The following tests formulated by Arbitrator Carroll Daugherty represent a practical and effective way to determine whether just cause is present for discharge or other disciplinary actions. Answering 'No' to one or more of the following questions means that just cause is either not satisfied or is at least seriously weakened:

1. Notice. Did the employer give the employee forewarning or foreknowledge of the possible or probable consequences of the employee's disciplinary conduct?
2. Reasonable Rule or Order. Was the employer's rule or managerial order reasonably related to (a) the orderly, efficient, and safe operation of the employer's business; and (b) the performance that the employer might properly expect of the employee?
3. Investigation. Did the employer, before administering the discipline to the employee, make an effort to discover whether the employee did, in fact, violate or disobey a rule or order of management?
4. Fair Investigation. Was the employer's investigation conducted fairly and objectively?
5. Proof. In the investigation, did the 'judge' obtain substantial evidence or proof that the employee was guilty as charged?
6. Equal Treatment. Has the employer applied its rules, orders, and penalties even-handedly and without discrimination to *all* employees?
7. Penalty. Was the degree of discipline administered by the employer reasonably related to (a) the seriousness of the employee's *proven* offense; and (b) the record of the employee in his service with the employer?