

GRIEVANCE HANDLING - JURISPRUDENCE (ARBITRATIONS & CASE LAW)

EDITH CAVELL - CRITERIA

EDITH CAVELL PRIVATE HOSPITAL V.
HOSPITAL EMPLOYEES' UNION,
LOCAL 180 (1982) 6 L.A.C. (3D) 229.

An employer must satisfy this legal test if they seek to discipline an employee for a non-culpable deficiency in job performance:

1. The employer must define the level of job performance required.
2. The employer must establish that the standard expected was communicated to the employee.
3. The employer must show and give reasonable supervision and instruction to the employee and afford the employee a reasonable opportunity to meet the standard.
4. The employer must establish an inability on the part of the employee to meet the requisite standard to an extent that renders her incapable of performing the job and that reasonable efforts were made to find alternate employment in the competence of the employee.
5. The employer must disclose that reasonable warnings were given to the employee and a failure to meet the standard could result in dismissal.