Is a First Distracted Driving Offence Just Cause to Terminate? – Ask The Expert

Employees guilty of distracted driving may not get a second chance if driving is their job.

QUESTION

Can we terminate an employee for distracted driving if it's just a first offence, or do we have to issue a warning first?

ANSWER

It depends.

EXPLANATION

Typically, progressive discipline begins with a warning for a first offence and progressively stricter penalties for further violations through termination. But there are some offences that are so egregious that you're allowed to bypass the prior stages of the progressive discipline policy and go right to termination or more serious penalties, even if it's just a first offence. The question is whether distracted driving qualifies as one of those offences. My guess is that it doesn't. However, there are also other circumstances to consider. The more of these things that are true, the stronger your case for termination for a first offence:

- Driving is the employee's primary job, like a trucker or bus driver;
- The employee has a history of discipline for distracted driving or other safety offences;
- The distracted driving incident caused injury, property damage or other serious consequences;
- The employee was carrying passengers—the larger the number, the more serious the offence;
- The employee lied about what happened;
- The employee refused to accept responsibility; and/or
- The employee showed no remorse for the conduct.