



Labour

Progressive Discipline

Do you have concerns with an employee's work performance?

Here are the steps for applying progressive discipline in the work place

Most employees want to do what is expected of them. You can help by ensuring that company policies are made clear and applied consistently and fairly to everyone. However, as an employer, you may need to deal with problems caused by the performance of an employee. You should:

- **act early**... before poor work becomes a habit;
- **be fair**... by clarifying the job expectations with the employee;
- **improve the employee's performance**... by providing appropriate direction;
- **try to solve the problem**... before it gets to the dismissal stage by applying the “progressive discipline process”.

The steps outlined in these pages describe the process known as **progressive discipline**. It allows you to build on the skills of your present staff and to make clear to everyone what the company policy is on job expectations. It improves the efficiency of your company by saving you the time and money involved in dismissing one employee and hiring a new one. As an employer, the way you apply the progressive discipline process is the basis of your defence if an employee files a complaint of unjust dismissal.

What kind of problems?

Incompetence:

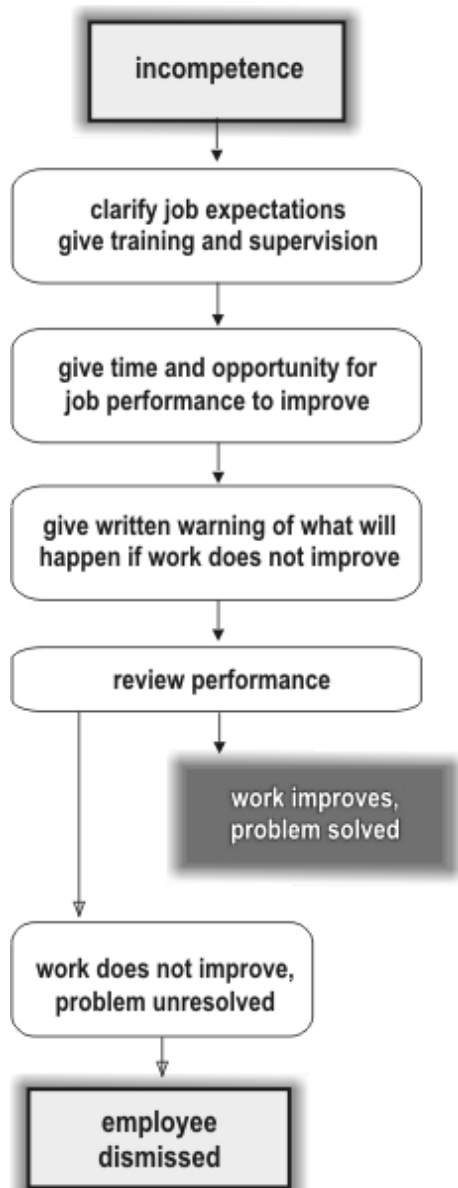
employee lacks the skills or ability needed for the job

Misconduct:

employee breaks rules for keeping the work place efficient and safe

A good employer uses every opportunity to clearly communicate to all employees the expectations of the job and what will happen if these expectations are not met.

In the step-by step method described here, *negligence* may be treated as **incompetence** (if the employee is *neglecting* duties without realizing what is expected) or as **misconduct** (if the employee is fully aware that duties are being *neglected*, but *neglects* them anyway). The following charts and explanations walk you through the progressive discipline process.



Dealing with Incompetence

Does the employee lack the skills needed to do the job? If so, first speak with the person face to face and clarify the expectations of the job. Tell the employee what will happen if there isn't improvement. This may include being dismissed. Act promptly. If you let it go for too long without taking action you are considered to be **condoning** the poor work performance. You can't then use it as a reason for dismissal.

Next, ask yourself if this person has the ability to learn the skills needed for the job. If so, give the employee a fair chance to improve work performance by providing job training and supervision. Allow enough time for the employee to practise and use new skills. Or, if this is a long-time employee with a good work record who has now changed positions, you could consider giving the person different work duties. This might be fairer than starting the disciplinary process.

If the employee's work performance improves, the process worked! Congratulations! If not, you are now in a better position to decide if dismissal is warranted.

DON'T FORGET!
Keep a written record with dates of:

- Meetings
- Training sessions
- Warnings
- Performance reviews

Begin keeping records when you first speak to the employee about the problem. **THIS IS ESSENTIAL.** If you have not done so and the employee decides to challenge the dismissal, your chances of successfully defending your actions at a hearing are greatly reduced.

Rather than straight dismissal, the goal of progressive discipline is correcting poor behaviour and creating a better and more productive employee.

Dealing with Misconduct

Decide if the misconduct of your employee is minor or severe. Take into account factors like:

- Seriousness and/or frequency of the problem
- Employee's work history
- Effect on the organization

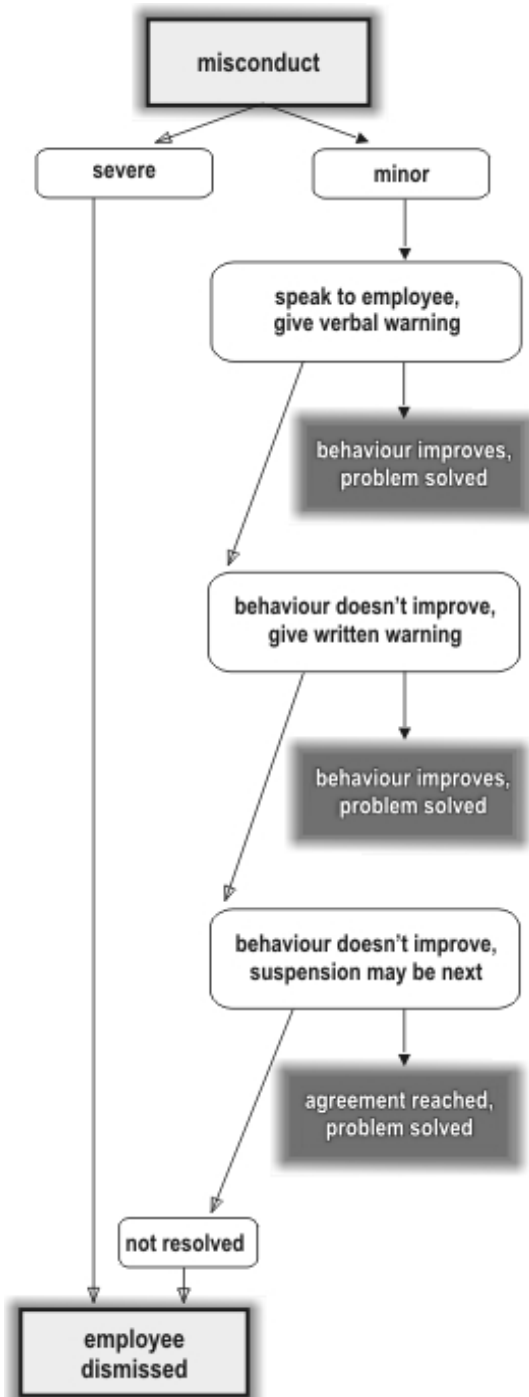
If the misconduct is **severe**, you may have just cause to fire the employee. You can dismiss immediately. This is called **summary dismissal**. However, you must act early. If you let the problem go on too long, you are **condoning** the behaviour and won't be able to use it later as a reason for summary dismissal.

If the misconduct is **minor**, speak with the employee face to face. Allow all sides of the story to be heard. Collect all the facts, including those given by witnesses. Review the job expectations with the employee. Outline the consequences if these expectations are not met. Although time consuming, it is important to keep a written record of these activities. If you both come to an agreement that the behaviour will be corrected—the problem is solved! However, if the behaviour does not improve, you may give the employee a written warning about possible suspension.

If the problem persists, you may now consider suspending the employee. When this action is taken, provide, in writing, the job expectations and future consequences if they are not met.

Once the suspension is over, try to come to an agreement that there will be no further misconduct.

You are now in a better position to decide whether the last resort of dismissal is warranted.



Mitigating & Aggravating Factors

There are a number of factors to consider in applying the progressive discipline process to cases of either incompetence or misconduct. For example:

- Was the misconduct intentional?
- Is the employee accepting responsibility for his/her actions?
- Was the infraction an isolated incident?
- Is this a long-term employee?
- What is the work history of the employee?

See Labour Standards Pamphlet 8, “Unjust Dismissal”, page 13, for more examples.



Employer Checklist for Progressive Discipline

Incompetence: Employee lacks the skills or ability to do the job.

- Set out clear, reasonable job expectations in company policy.
- Communicate clearly job expectations to all employees.
- Bring unacceptable work to the attention of the employee promptly.
- Provide reasonable supervision, training and instruction.
- Give reasonable warning that failure to meet these expectations could result in dismissal.
- Allow for time and opportunity to meet the job expectations.
- As a final step in the process, if no improvement, dismiss the employee.
- Keep complete written records.**

Misconduct: Employee breaks rules for keeping the work place efficient and safe.

- Give the employee the opportunity to tell his/her story about the misconduct.
- Collect all the relevant facts surrounding the misconduct.
- Give a verbal warning.
- Give a written warning.
- Suspend the employee.
- As a final step in the process, dismiss the employee.
- Keep complete written records.**

This publication is provided for information only. For interpretation and application purposes, please refer to Part III of the *Canada Labour Code* (Labour Standards), the *Canada Labour Standards Regulations*, and relevant amendments.

QUESTIONS? GET THE ANSWERS!
Contact your HRSDC - Labour Program who will advise you of your rights and obligations as an employer
or visit our Website at:
www.labour.gc.ca

The number, 1-800-641-4049, offers 24-hour bilingual information on the Directorate's programs and services and provides a single point of contact for our clients and Canadians

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