



EVICTING UNWANTED RESIDENTS:

Responsibility, Prevention and Treatment of Bed Bugs in the Multifamily Industry

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A few years ago, concern about bed bugs swept the hospitality industry. But this nocturnal parasite is now the sleeping giant in the multifamily industry. Difficult to eradicate, easily spread from unit to unit, the resilient bed bug is taking up residence in apartments across the country. The insidious pest provokes complaints from residents and puts property managers in uncharted territory in terms of rights and responsibilities. Cooperation with residents and pest management providers to implement policies and procedures regarding bed bugs is key to biting the bed bugs before they bite your property.

SQUATTERS: About Your Non-Paying Residents

Adult bed bugs are about a quarter of an inch long, flat and have a broad, oval shape like an apple seed. Bed bugs are attracted to body heat and body odor and feed exclusively on blood. Following a feeding, they have a reddish brown color. The stains they leave behind are darker, almost black in color. Bed bugs prefer to reside within a five-foot radius of hosts. Apartment buildings provide bed bugs with a perfect combination of a reliable food source and convenient, nearby harborage.

Bed bugs harbor in spots cooler than the ambient temperature in the room, such as mattresses, box springs, behind wooden headboards, in couch cushions or among personal belongings in an apartment. Though not rapid breeders compared to other pests, a bed bug population left untreated can become a critical problem in a matter of months.

According to existing research, bed bugs do not present a major health concern because they are not thought to transmit pathogens – disease-causing agents – to their hosts like other parasites. However, they can be associated with minor to moderate skin irritation, respiratory issues and sleep disturbance. Beyond any potential health implications, bed bugs are a detriment to residents' peace of mind and the reputation of your property.

MOVE-IN SPECIAL: What Makes Multifamily Challenging

The characteristics of the multifamily environment are not only attractive to bed bugs, they also present unique challenges in the detection and remediation of the pests.

- Cleaning standards – Whereas health care and hospitality environments have established, stringent cleaning practices regarding bed linens, apartment residents aren't required to regularly launder.
- Clutter – The volume of personal belongings in an apartment, like books, shoes, toys and furniture, provide bed bugs with a multitude of harborage areas.
- Close Quarters – Bed bugs can easily travel to adjacent units. These pests are remarkably resilient. Research indicates they can survive up to 18 months without feeding under optimal conditions at a consistently cooler temperature.
- Collection – In some cases, departing residents don't want to bother with moving furniture. Infested mattresses, couches and other furniture may be collected by an incoming resident.
- Clear Roles – Apartments are homes, as opposed to pass-through locations like hotel or hospital rooms that have regular attention from maintenance staff. This complicates who's responsible for the problem and the remediation, which can be costly.

PROPER PROPERTY MANAGEMENT: Understanding Your Responsibility

The lines between property manager and resident responsibility can seem indistinct, but it is becoming increasingly important for property managers to define their responsibilities as protection against resident complaints and potential litigation. Pest management providers can offer verification of treating or controlling certain pests, but with the unique challenges presented by bed bugs – their resilience and resistance to chemicals – it is far more difficult to control them. Pesticides no longer approved for use, such as DDT, once kept bed bugs in check.

Work with your pest management provider to thoroughly inspect vacated apartments prior to leasing to a new resident in order to verify that the unit is “bed bug free.” Note any “hot spots” – areas where bed bugs might harbor – for ongoing periodic inspection. Keep documentation of the move-in condition and dates of subsequent inspections to substantiate your efforts to prevent a bed bug infestation. Also, consider training your maintenance staff to spot bed bugs. Although not a replacement for a professional pest management provider, monitoring by maintenance staff who are frequently inside units can help with early detection.

GREAT EXPECTATIONS: Establish a Bed Bug Policy

Incorporate these preemptive measures into a bed bug policy issued to new residents. This policy should direct residents about their responsibility to prevent, report and allow treatment of bed bugs. Recommended items to include:

- Acknowledgement of the “bed bug free” status of the unit at move in
- Requirement of encasements – tight, synthetic coverings – on mattresses and box springs
- Property managers should consider inspecting mattress and box springs at move-in
- Agreement not to acquire furniture from dumpsters or other unknown sources
- Report sightings of bed bugs to property manager immediately
- Allow access to the unit for inspection in the event of an infestation in an adjacent unit
- Articulation of standard treatment procedures as indicated by a qualified pest management provider
- Cooperation with the pest management provider to access for treatment and subsequent inspections until deemed clear by the pest management provider
- Indication that failure to comply with reporting or recommended treatments could result in the termination of the lease agreement.

EDUCATE TO ANTICIPATE: Engaging Residents in Prevention

In addition to the policy that outlines the resident's responsibility if bed bugs take up residence, educate the resident about ways to prevent bed bug infestations. Provide the bed bug basics and preventive tips such as:

- Overview of bed bug behaviors
- Identification of potential harborage areas
- Description of the signs of bed bug presence
- Reducing clutter reduces hiding places
- When traveling, thoroughly inspect luggage before bringing it back into the apartment
- Only acquire furniture from reputable sources
- Conduct regular inspections of key hot spots for signs of bed bugs

Include educational materials in new resident packages, property newsletters and on your property's Web site.

EVICTION NOTICE: Treatment Protocols

If routine monitoring uncovers a bed bug problem, contact your pest management professional immediately. Remediation tactics will be less invasive if initiated in the early stages of an infestation. Advise residents not to disturb the apartment before the pest management provider arrives. Moving furniture or other items can spread the bed bugs to other parts of the unit and make it more difficult to isolate and treat the problem.

Non-chemical and environmentally conscious methods:

- Dispose – If furniture or other items harboring bed bugs can be disposed of, it increases the chances of a successful eradication. Items placed in or around a communal dumpster should be destroyed or marked to prevent residents from scavenging infested items and putting them in another unit.
- Launder – For items that can be laundered, wash in hot water with detergent and dry in a dryer. The combination of heat and soap will kill bed bugs and remove any eggs.
- Heat & Steam – Some pest management professionals use special equipment to heat the apartment to a certain temperature for a sustained period of time to eradicate any bed bugs. Steam may be used effectively on both soft and hard furniture and surfaces.
- Freeze – Due to bed bugs' need for moderate temperatures, extreme cold seems to be as effective as heat. Pest management professionals may also have the equipment to cool bed bug harborage areas, which should kill any bed bugs in the space.

Chemical treatments should only be applied by a licensed, trained pest management professional who can advise you of the best course of action:

- Fumigate – A chemical material will kill all pests and leaves no residual. It does require the apartment to be completely cleared.
- Non-residual Chemical Treatments – Formulations of alcohol can kill bed bugs.
- Residual Chemical Treatments – Chemically treat carpet edges, baseboards, furniture, headboards, etc.

THE BURDEN OF PROOF: Who's Responsible for Bed Bugs?

With bed bugs on the rise, property managers are questioning the legal ramifications of their new residents. Can they be held liable if a resident files suit over the presence of bed bugs? It is important to understand that the liability issues surrounding bed bug infestations are governed by state and sometimes local law. Responsibilities of property management companies may vary from state-to-state and range from zero liability to significant exposure. Deciding factors for assigning liability include the responsibilities of the owner and resident as defined by the language in lease documents, policies indicated to the prospective resident and the agreement between the management company and the owner.

In most jurisdictions, owners and management companies should take steps to guard against a negligence or gross negligence tort claim. An owner or management company is negligent if it fails to act reasonably in light of foreseeable risks that result in damages to the resident. The damage to the resident must be proximately caused by the negligence of the owner or management company. A defendant commits gross negligence if its acts or failures to act amount to willful or wanton disregard for its responsibilities. In essence, the defendant acted with reckless disregard or in bad faith. For example, ignoring bed bug complaints or attempting to “self-treat” the problem in an ineffective manner could result in a ruling of negligence.

In some states, a simple negligence standard may be applied. In others, strict liability may be the rule, meaning the owner or the management company is liable regardless of what caused the infestation. However, it is doubtful that the plaintiff could receive punitive damages unless actions amount to gross negligence. Rent abatement and actual damages (as opposed to punitive damages) are typically awarded when the owner or management company is found to be negligent.

What is a resident’s responsibility? In some jurisdictions it may be possible for the owner to shift liability for a bed bug infestation to the resident via the lease agreement. If the property management company can prove that an infestation results due to the actions or inactions of the resident, then the resident could be held liable. However, the language in the lease or a lease addendum must clearly transfer the responsibility to the resident.

SLEEP TIGHT: Concluding Thoughts

In the last decade, bed bugs have evolved from mythical creature to massive headache. Treatment measures are complex. Liability is blurry. And reputations and rent payments are on the line. With so many questions that have imprecise answers, the best course of action is to be proactive in establishing a bed bug policy and engaging a licensed pest management professional to partner in helping protect your property. By setting expectations with residents about bed bug prevention and treatment when they move in, you reduce the chance of being served when they move out.



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