

# BEDBUGS...



## EEEEK!

### **BEDBUG LAW WILL BITE YOU IF YOU ARE NOT CAREFUL**

**By Neil S. Shankman, Esq.**

As problems with bedbug infestations have increased throughout the State of Maine, the Legislature has been called upon to respond. In 2010, a new law was enacted. Title 14 M.R.S.A. §6021-A. It will go into effect on July 11, 2010.

If a landlord receives either written or oral notice from a tenant that a dwelling unit may have a bedbug infestation, the landlord must conduct an inspection within five days. If it is determined that an infestation of bedbugs does exist, the landlord has ten days to contact a pest control agent as that term is defined in Title 22 M.R.S.A. §1471D. The landlord is required to “take reasonable measures

to effectively identify and treat the bedbug infestation” through a pest control agent who carries liability insurance.

Landlords are prohibited from renting a dwelling unit unless they disclose to a prospective tenant that an adjacent unit is currently infested with, or being treated for, bedbugs. If at any time a current tenant or a prospective tenant requests information, the landlord must disclose the last date the unit was inspected for a bedbug infestation and found to be free of such a problem. The landlord may not rent a unit that the landlord knew or should have known is infested with bedbugs.

A tenant is required to promptly notify his landlord when he knows or suspects that there may be an infestation of bedbugs in the unit. If the landlord gives a tenant reasonable notice that he needs to inspect the premises because of a concern regarding bedbugs, the tenant is required to grant the landlord or his pest control agent access to the unit. The law specifies that the initial access to the unit may include only a visual inspection and manual inspection of the tenant’s bedding and upholstered furniture. If the pest control agent reasonably believes that additional items need to be inspected, the tenant is obligated to cooperate. If the pest control agent finds bedbugs in either the rented unit, or an adjoining unit, the individual may have additional access to the tenant’s personal belongings.

Furthermore, the tenant is required to comply with all reasonable measures to eliminate and control a bedbug infestation. The “unreasonable failure” to completely comply with the pest

control measures may result in the tenant being “financially responsible for all pest control treatments of the dwelling unit”.

If for any reason the tenant is unable to comply with the requested bedbug inspections or control measures, the landlord is required to offer to “make reasonable assistance, including financial assistance”. Quite frankly, neither the law nor the legislative history clarify exactly what the Legislature was intending by that provision. However, it appears that once the landlord discloses the anticipated cost of the tenant’s compliance with the inspection and control measures, the landlord may charge the tenant “a reasonable amount for any such assistance, subject to a reasonable repayment schedule, not to exceed six months”.

Failure of a landlord to comply with the terms and conditions of the bedbug law is presumed to be a violation of the warranty of habitability (the landlord unreasonably failed, under the circumstances, to take prompt, effective steps to repair or remedy a condition that endangers or materially impairs and health or safety of a tenant). If the landlord fails to comply with the provisions of the law, he is liable for a penalty of \$250.00, or actual damages, whichever is greater, plus reasonable attorney’s fees.

If a tenant fails to provide reasonable access, or comply with reasonable requests for inspection or treatment, or if the tenant otherwise unreasonably fails to comply with the requirements of the law, the landlord can seek a Protective Order pursuant to 14 M.R.S.A. §6030-A.

If the court finds that the tenant unreasonably failed to comply with the bedbug law, the court is authorized to issue a temporary order, or an interim order, pursuant to Title 5 M.R.S.A. §4654, the Protection from Harassment statute. The court is authorized to grant the landlord access to the premises, allow him to engage in bedbug control measures, and require the tenant to comply with specified measures or, if the tenant fails to comply, assess him with costs and damages related to the tenant’s non-compliance. Any emergency order granting the landlord access to the premises must be served upon the tenant at least twenty-four (24) hours before the landlord enters the premises.



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