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Bed Bugs in Rental Housing

What does Virginia law say about bed bugs in rental housing?

Virginia law does not specifically mention bed bugs. The law does not explicitly say whether landlords or tenants are responsible for getting rid of bed bugs. Virginia law does require all landlords to follow building and housing codes affecting health and safety, and to make all repairs needed to keep the place fit and habitable. Because bed bugs make rental housing not habitable, this generally means landlords are responsible for getting rid of bed bugs.

What duties do landlords have about bed bugs?

Under Code of Virginia §55-248.13, a landlord must do two things.

- Comply with applicable building and housing codes affecting health and safety.
- Make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition.

What duties do tenants have about bed bugs?

Under Code of Virginia §55-248.16, a tenant must do three things.

- Comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes affecting health and safety.
- Keep that part of the premises the tenant occupies free from insects and pests.
- Promptly notify the landlord of the existence of any insects or pests.

Does this mean the tenant is responsible for getting rid of bed bugs?

Not necessarily. Tenants must keep the premises in a pest-free condition (which not the same as eliminating pests). Tenants also must promptly notify the landlord of the existence of any insects or pests. Unfortunately, many landlords do not understand the law, and believe they may bill tenants for the cost of pest and bed bug treatment. They rely upon §55-248.16 as authority for these charges. However, §55-248.16 only requires tenants to keep the premises in a pest-free condition, and to promptly notify the landlord of the existence of any insects or pests. Notification of the landlord makes no sense unless the landlord also is responsible for elimination of insects and pests, including bed bugs.

What duties are imposed on landlords and tenants by building and housing codes?

Some counties and independent Cities have adopted Part III of the Virginia Uniform Statewide Building Code (USBC) as the local Property Maintenance Code. This portion of the USBC also is called the Virginia Maintenance Code. It provides rules to enforce the International Property Maintenance Code (IPMC). The 2012 Virginia Maintenance Code incorporates 2012 International Property Maintenance Code (IMPC). This includes Section 309 dealing with pest elimination.

SECTION 309 PEST ELIMINATION

309.1 Infestation. This section shall apply to the extent that insect and rodent infestation adversely affects a structure. All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

309.2 Owner. The owner of any structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure.

309.3 Single occupant. The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for pest elimination on the premises.

309.4 Multiple occupancy. The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for pest elimination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant and owner shall be responsible for pest elimination.

309.5 Occupant. The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure.

Exception: Where the infestations are caused by defects in the structure, the owner shall be responsible for pest elimination.

What does this mean?

If this building and housing code has been made applicable to a locality, tenants are responsible for pest elimination only in two situations:

- Where the tenant occupies a multi-family dwelling and infestation is caused by the tenant's failure to prevent infestation in the area the tenant occupies. Even in this situation, both the occupant and owner shall be responsible for pest elimination.
- Where the tenant occupies a single family dwelling and the infestation has not been caused by defects in the structure.

This building and housing code is consistent with the general duties under Virginia law. Landlords have an obligation to do whatever is necessary to put and keep the premises in a fit and habitable condition, which includes eliminating pests.

Tenants have an obligation to keep the premises in a pest-free condition (which not the same as eliminating pests), and to promptly notify the landlord of the existence of any insects or pests.

If a tenant does not promptly report insects and pests, including bed bugs, the tenant could be responsible for the added cost of treatment due to the tenant's delay in reporting.

Other than tenant responsibility for the added cost of treatment due to a tenant's delay in reporting, or for treatment due to a tenant's failure to prevent infestation in the area occupied, there is no legal authority that allows a landlord to require a tenant to pay for the cost of bed bug treatment

So may a landlord bill a tenant for the cost of bed bug treatment?

Again, many landlords do not understand the law, and believe they may bill tenants for the cost of bed bug treatment. There is no legal authority that allows a landlord to require a tenant to pay for the cost of bed bug treatment, other than for the added cost of treatment due to a tenant's delay in reporting or for treatment due to a tenant's failure to prevent infestation in the area occupied. Anything in the lease that says otherwise cannot be enforced by the landlord against the tenant.

What should a tenant do if billed for the cost of bed bug treatment?

If a landlord does bill a tenant for the cost of bed bug treatment, the tenant should not ignore the bill. The tenant should write the landlord a reply letter. The letter should say the tenant denies owing the bill because the tenant has no responsibility to pay for the cost of bed bug treatment. The letter also should say that none of the future payments (rent or otherwise) to the landlord may be applied to the bill for the cost of bed bug treatment

In addition, when the tenant makes future payments (rent or otherwise) to the landlord, the tenant should write a letter with each payment. The letter should say exactly how the payment is to be used (for example, for July rent). The letter also should say that none of the payment may be applied to the bill for the cost of bed bug treatment. Finally, if the landlord files a lawsuit against the tenant because the tenant did not pay for the cost of bed bug treatment, the tenant should get legal help right away.