

# Kimball, Tirey & St. John LLP

## Bed Bugs and a Landlord's Rights and Responsibilities

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If you have not had a problem with bed bugs at your apartment community, consider yourself very fortunate. Bed bugs were once thought to be a thing of the past. However, a steady increase in international travel and a ban on the pesticide DDT has allowed them to flourish in the United States once again. Bed bugs do not discriminate. They can invade even the most luxurious of apartment communities and once they make themselves at home, they can be extremely difficult to eradicate.

Be prepared to deal with an outbreak of bed bugs before it occurs. First, check your rental agreement to see if it contains language that gives you the necessary tools to efficiently handle an outbreak of bed bugs. Many leases will contain language that specifies what the resident's responsibility is in terms of pest control treatment. For example, the lease may state that the resident agrees to comply with any pest control preparation requirements such as moving or discarding personal property inside the unit or vacating the premises if necessary.

If your lease agreement does not contain a clause about pest control issues however, you may still enter a resident's apartment in order to begin treatment. Preparation for spraying is not generally considered an emergency, so a landlord is required to give written Notice of Intent to Enter before beginning treatment. 24 hours is generally considered reasonable notice. The notice should be delivered to the unit and if the resident is not there to receive it, it can be posted on the resident's door. If the resident refuses to allow access the following day, you can serve a 3-Day Notice to Cure Covenant or Quit for failure to allow access.

You may have a resident who will allow you to enter the unit, but refuses to prepare his or her unit so that your vendor can begin treatment. If the resident refuses to comply with any preparation requirements (such as moving or permanently discarding infested personal property or furnishings), you may be able to serve a 3-Day Notice to Cure Covenant or Quit for violating other sections of the lease such as a clause that deals with housekeeping issues. Contact an attorney to discuss the type of notice you can serve upon the resident if your lease does not specifically require your resident to comply with pest control preparation requirements. You should also contact an attorney if the resident whose unit is infested has a disability.

If a resident reports an infestation of bed bugs in the his or her unit, prepare to inspect the surrounding units right away to make sure the bugs have not spread throughout the community. As with any other damage caused by a resident, you may be able to charge the resident for the cost to treat the unit if it is determined that the resident is responsible for the infestation. However, do not delay treatment while waiting for payment by the resident, as the landlord's first responsibility is to have the infested unit treated as soon as possible to prevent the spread of bed bugs to neighboring units.

Regardless of how well your community is maintained, there is a good chance you will eventually have an outbreak of bed bugs. Getting rid of them may require several visits from your pest control professional along with the cooperation of the residents whose homes are

infested. A landlord's best tools for dealing with an outbreak of bed bugs are a lease agreement with pest control language and a reputable pest control vendor who has experience dealing with bed bug infestation in multifamily housing.

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