

Don't Let the Bedbugs Bite

By Allen Smith 11/19/2015

Permissions

Employers should know what to do when employees come to work sick and contagious: Send them home. The same advice applies when someone comes to work with any highly communicable condition, like bedbugs.

But it can be tricky getting employees to confide in HR when it comes to a bedbug infestation in their home.

“A bedbug infestation at home can be very embarrassing for an employee,” said Hannesson Murphy, an attorney with Barnes & Thornburg in Indianapolis. “HR professionals need to make sure that employees can count on the issue being handled confidentially, and that employees know they will not be punished for coming forward with the information.”

The Environmental Protection Agency says it is “very unlikely, though not impossible, that a bedbug infestation will develop in an office, classroom or other nonresidential environment, such as a department store. However, these sites can serve as transfer hubs for bedbugs to hitchhike a ride into your home. Management, staff, students and workers all have roles to play in reducing the spread of bedbugs.”

Even though bedbugs are parasites that feed off human blood, they typically do not show up in the workplace because they are more active at night, when people are asleep. When they do find their way into a workplace, they tend to stay on briefcases, purses or the clothes an employee is wearing, but they may also attach themselves to break room couches or chairs, or to others' coats in coat closets.

Exterminations

Ben Huggett, an attorney with Littler in Philadelphia, said his clients have had to deal with bedbugs a couple of times. Hiring an exterminator doesn't necessarily solve the problem because even if the bedbugs are eliminated initially, they can resurface weeks later if an employee keeps bringing them back into work from an infested home.

Employers may choose to offer paid or unpaid leave to an employee whose home is infested with bedbugs, Huggett said. The time away wouldn't be covered by the Family and Medical Leave Act or the Americans with Disabilities Act (ADA), he said, since having bedbugs isn't a serious health condition nor an ADA disability.

Bedbugs can be difficult to get rid of completely and some workers can't afford exterminators, he noted. And because there can be a stigma that those who have bedbugs are somehow "dirty," workers with infested homes may not be willing to admit to an infestation.

Employers may want to offer to pay for an extermination if a worker with an infested home steps forward. An employer might also consider requiring the employee to stay home until an exterminator confirms the bedbugs are gone, said Andria Ryan, an attorney with Fisher & Phillips in Atlanta.

"If someone is acknowledging their home is infected, and if they cannot ensure they are coming to work 'clean,' an employer does not have any other practical options," said Richard Greenberg, an attorney with Jackson Lewis in New York City.

If bedbugs have been detected at work, or someone reports a home infestation, the office should be inspected, preferably in the off hours to avoid alarming employees, he added.

Legal Claims

Someone exposed to bedbugs at work might file a negligence claim against an employer, Greenberg said.

"Someone could argue they suffered a psychological detriment or a physical detriment and financial costs due to being exposed in the workplace and carrying such bugs home," he remarked.

"At least one worker's compensation claim has been based on an allegation that a co-worker brought bedbugs into the workplace," Murphy said. "A company that knows about a bedbug infestation and does nothing to correct it also could be subject to liability for negligence for any damages to customers or third parties."

In one ADA case, a doorman with a developmental disability was suspended after complaints about his lack of personal hygiene. After concerns were raised about bedbugs, the bugs and their eggs were found in the doorman's locker, Murphy noted.

“The evidence also showed that his residence had been infested with bedbugs for a month before the locker inspection. The employer then suspended the doorman and prohibited him from returning to work until he could confirm that his residence had been inspected, treated and certified by a licensed examiner as free of bedbugs,” he added.

Murphy said the court ruled for the employer on the ADA claim, “concluding that the evidence showed the employer had a legitimate concern about bedbugs and not that it was motivated by discrimination” based on any disability. (The case is *Seeman v. Gracie Gardens Owners Corp.*, 794 F. Supp. 2d 476 (S.D.N.Y. 2011).)

Allen Smith, J.D., is the manager of workplace law content for SHRM. Follow him @SHRMlegaleditor (<https://twitter.com/SHRMlegaleditor>).

Permissions

RELATED CONTENT

Fainting is Recordable Even If Caused by Non-Recordable Event

(</hrdisciplines/safetysecurity/articles/Pages/Fainting-recordable-OSHA.aspx>)

Don't Let the Bedbugs Bite (</LegalIssues/FederalResources/Pages/bedbugs-exterminate.aspx>)

Proposals for 'Blacklisting' Executive Order Are Costly

(</LegalIssues/FederalResources/Pages/blacklisting-executive-order-proposals.aspx>)

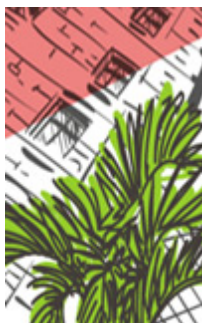
Flight Attendants' Safety Concerns Collide with Confidentiality Agreement

(</LegalIssues/FederalResources/Pages/United-safety-concerns.aspx>)

Consider Pros and Cons of Drug and Alcohol Testing

(</LegalIssues/EmploymentLawAreas/Pages/Consider-Pros-Cons-Drug-Alcohol-Testing-.aspx>)

TOP PICKS: WORKPLACE DEMOGRAPHICS



2016 Talent



Webcast: What Drives



Ve

Management research/customers/research/pages/default.aspx) (http://conferences.shrm.org/talent- conference) April 18-20, 2016 in Orlando. Take your human capital strategies to the next level.	Retirement Decisions? (http://www.shrm.org/multimedia/webcasts/decisions) Employees may not be leaving for the reasons you think. Dec. 2, 2 p.m. ET / 11 a.m. PT	Hi Me (ht ma me Fir spe wo an
---	---	---

