



BED BUGS,

CARROTS,
AND STICKS

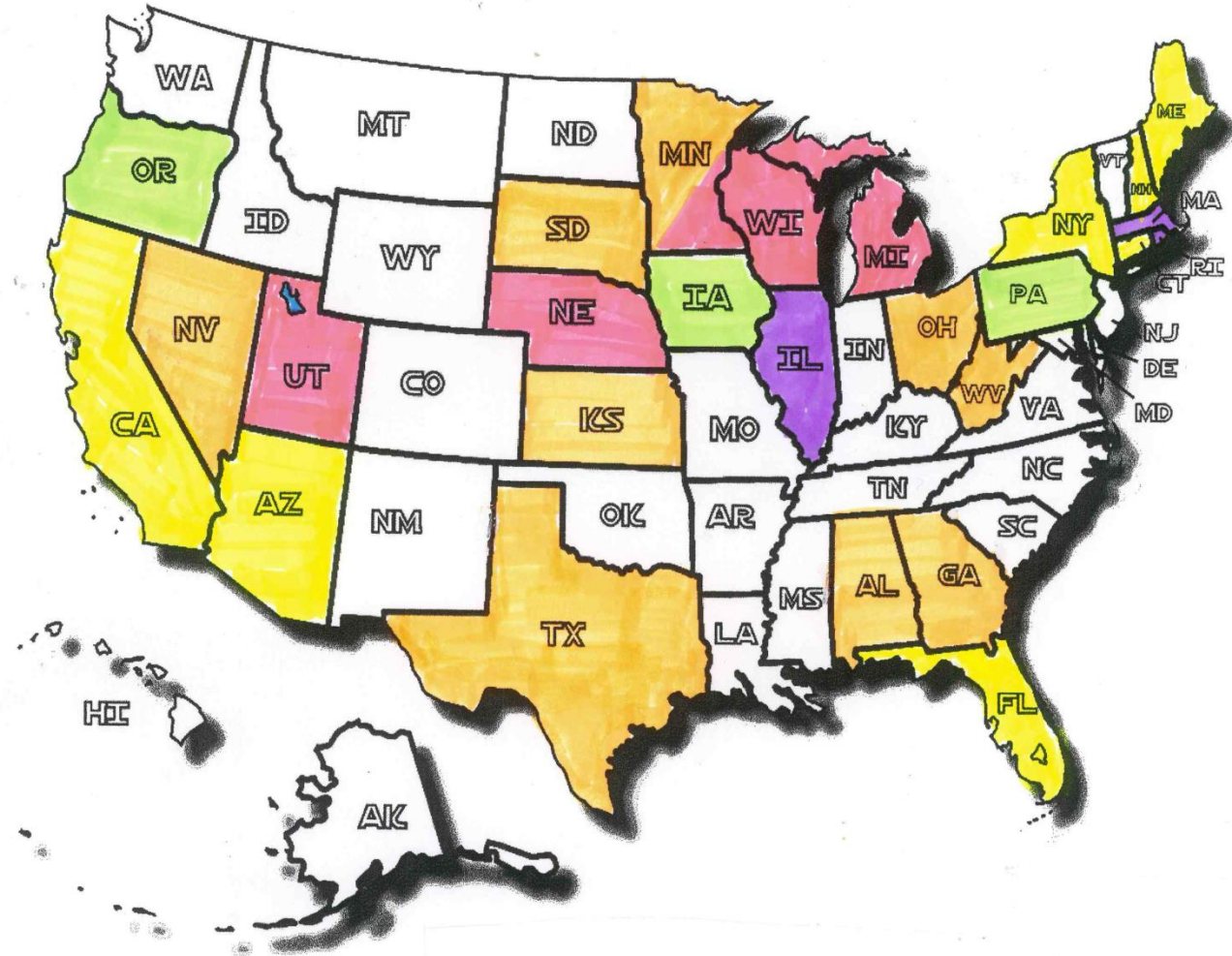
Cleveland Housing Court
Ronald J.H. O'Leary, Judge
Magistrate Sandra Lewis



CIVIL VERSUS CRIMINAL

- Civil matters are initiated by an individual or a business against another individual/business.
- Criminal matters are initiated by a government against an individual or a business.
- The proof required to win the case varies based upon whether the case is civil or criminal.

ACROSS THE NATION . . .





IS IT A CODE VIOLATION?

- Nuisance
- Public Health
- Habitable
- Insects/Pests
- Bed bugs



HABITABILITY – suitable . . .

- “and fit for a person to live in: free of defects that endanger the health and safety of occupants.”

Merriam-Webster

- “ for the purpose of living, sleeping, cooking, or eating therein.”

Sanitation Statute
Massachusetts 1960



CLEVELAND ORDINANCE

“All dwelling structures and the premises thereof shall be maintained free from . . . infestation by insects, vermin or rodents.”

CCO § 369.17

MUNICIPAL CODES: NYC

- Dwelling maintained free from insects/pests
- “Insects . . . including . . . bedbugs.”
- Landlords must provide a one-year bed bug history to new tenants.





IS IT A BASIS FOR A LAWSUIT?

- Statutory duty?
- Contractual duty?
- Implied warranty of habitability?
- Materially affect health and safety?

MAINE L/T STATUTE:

T must promptly notify L



L must inspect w/5 days

T must cooperate

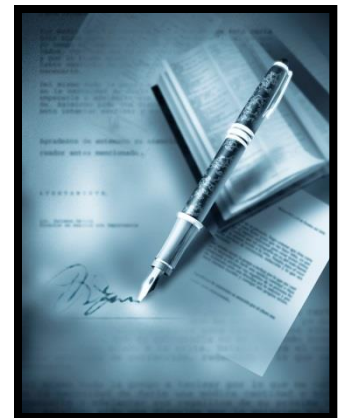


L must treat



WARRANTY OF HABITABILITY

- L/T agreement is a contractual relationship with an implied warranty of habitability.
- Implied warranty is in addition to statutory duties.
- Use of “as is” clause is “inherently unconscionable.”





... HEALTH AND SAFETY

- Do not carry/transmit disease.
- Not related to cleanliness of unit.
- Some people do not even show reaction to bites.
- Disrupts sleep.
- Bites that are scratched may become infected.
- Some people have allergic reactions.

CONTRACTUAL DUTY

- Lease
- Addendum
- Case law
- Mediation





PERSPECTIVES ON ADDENDA

- Inspection
- Representations
- Access for Inspection/Treatment
- Notification
- Cooperation
- Responsibilities
- Transfers
- Who Pays

NOT SO COMMON GROUND

Inspections and

- T has inspected and found no evidence of bed bugs
- T unaware of any infestation in furniture, clothing, personal possessions
- T must disclose previous infestation and treatment

. . . representations

- L is not aware of any current evidence of bed bugs





ACCESS/TREATMENT

- T must allow access
- T, family members, occupants, guests and invitees must cooperate
- L has choice of treatment method
- T must simultaneously treat personal property at T's own expense
- T's failure is default



NOTIFICATION

- Any known or suspected presence;
- Any recurring or unexplained bites, stings, irritations or sores that T believes may be caused by bed bugs; and
- If you discover any condition or evidence that might indicate presence.



COOPERATION

- Bedding, drapes, rugs bagged for transport to washing or dry cleaning
- Washables on hottest setting
- Dry cleanable items with notice to cleaner so that proper steps are taken
- Mattress bags or properly remove/destroy



COOPERATION cont'd

- Discard items that cannot be treated
- Empty all closets
- Remove all furniture from area to be treated
- Deep vacuum; properly discard
- Dispose of items as directed by exterminator

TRANSFERS

- L has right to move T to another unit OR terminate the tenancy





WHO PAYS

- T to insure personal property
- T to pay for treatment of personal property
- T to pay for treatment for neighboring apartments, etc.
- T to pay for lost rental income if L must move other tenants

WHO PAYS cont'd

If the end of the world is imminent, . . .
Landlord will be deemed
to be aligned with the
forces of light,
and Tenant with the
forces of darkness,
regardless of the parties'
actual ultimate destinations, unless and
until Landlord elects otherwise in writing.





PRACTICAL CONSIDERATIONS

- Counsel
- Time to litigate
- Expense to litigate
- Uncertainty of success
- Insurance
- Collectability



THE DEMILITARIZED ZONE

The more elaborate our means of communication, the less we communicate.

Joseph Priestly circa 1740

Business, after all, is nothing more than a bunch of human relationships.

Lee Iacocca



Helpful Links

- <http://www1.nyc.gov/assets/doh/downloads/pdf/vector/bed-bug-guide.pdf>
- <https://www.epa.gov/bedbugs/bed-bug-information-clearinghouse>
- <https://www.cdc.gov/parasites/bedbugs/faqs.html>

Helpful Links cont'd

https://www.cityofchicago.org/city/en/depts/bacp/supp_info/bedbug_information.html

MIDWEST PESTICIDE ACTION CENTER

BED BUG CHECKLIST FOR TENANTS

Do you think you have a bed bug problem? Are you...
1.) Waking up with bite marks, usually in a line or a circle?
2.) Seeing red smears or stains on your sheets, mattress, or other furniture near your bed?
3.) Seeing live or dead bed bugs through a magnifying glass?
If you answered yes to any of the above, you may have a bed bug problem. Use this checklist to help you figure out what to do next.

WHAT CAN YOU DO?

Right away:

- Pull bed away from wall
- Put clothes, bedding, and other items in dryer for at least 20 minutes on HIGH heat
- Once you remove items from dryer, seal them in bags so bugs cannot get in again
- Vacuum on a regular basis. Remove vacuum bag or contents, place into a plastic bag, seal tightly, and dispose right away.

Over the next few days:

- Buy a bed bug mattress and/or box spring cover
- Caulk all cracks and crevices, such as along baseboards and around windows
- Paint or seal your headboard/bed frame AND nightstand
- Eliminate clutter
- Do not store items under the bed
- Continue to vacuum at least once a day
- Launder clothing and bedding regularly

If the problem remains:

- Steam clean
- Use least-toxic bed bug products where appropriate
- Call your local elected official
- Talk to your neighbors and organize

IF YOU SUSPECT BED BUGS ARE IN YOUR HOME: DOS AND DON'TS.

- DO** call your landlord
- DO** call your elected public official(s)
- DO** talk to someone who can help you like: Local or State Health Department, University Extension office
- DO** always read and follow directions when using pesticides
- DON'T** throw away your furniture or belongings
- DON'T** panic
- DON'T** bug bomb
- DON'T** use pesticides not approved for bed bugs
- DON'T** spray mattress or self unless pesticide is labeled for such use

Midwest Pesticide Action Center is dedicated to reducing the health risks and environmental impacts of pesticides and promoting safer alternatives.

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