

CANADIAN Employment Law Today

Don't let the bedbugs bite - Protecting the corporate brand and employees

Shana French

September 25, 2013



For some it's a harmless bed time farewell to children — “don't let the bedbugs bite.” In the hospitality world, it can be a brand damaging crisis.

Bedbugs are becoming more widespread in North America and a hot topic for media coverage. While social media can be a useful tool to raise the profile of a brand or establishment, as anyone in the hospitality industry knows, negative coverage quickly translates into lost dollars. Unfortunately, news of an infestation can spread rapidly and employers will want to ensure an infestation is prevented or dealt with swiftly and discretely.

As bedbugs are most likely to be found in sleeping areas, workers who handle bedding, clothing, or furniture are at a heightened risk of exposure. Obviously, this includes employees who work in the hospitality industry.

Does an employer have a legal duty to protect staff from bedbugs?

In Ontario, an employer's duties under the *Occupational Health and Safety Act* (OHSA) include taking every precaution reasonable in the circumstances to protect the health and safety of a worker. In turn, workers have a corresponding right to refuse to do they believe may endanger their physical safety, commonly referred to as a “work refusal.”

Fortunately, bedbugs are more of a nuisance to people than a serious threat to health and safety. Reaction to bites varies from person to person but is generally restricted to an allergic rash, and frequent scratching *may* lead to infection. Most importantly, bedbugs are not known to transmit disease from one person to another.

As it is unlikely an employee exposed to bedbugs would be in any real danger, the question becomes, *what do I do if an employee refuses to work because of a bedbug infestation?* The answer is to follow the normal work refusal process under the OHSA. However, the more work an employer does on the front end of a suspected bedbug infestation, the better position in which it will be to respond swiftly to any work refusal.

The best strategy is to develop a policy and procedure for the identification, management and prevention of bedbugs. Consider, for instance, a policy which requires workers to:

Prevention

- Minimize items taken between work and home -- take only what is necessary.
- Change into work clothes and shoes when arriving at work and remove them before leaving.
- Hang personal items or store them on shelves/lockers to keep them off of the floor.
- Be alert for signs of a potential infestation – at home and at work.

Damage control and containment

- Promptly report bedbug sightings to management so action can be taken swiftly.
- Protect belongings brought into an infested environment by putting them into a sealable plastic containers or bag and placing them in the middle of the room.
- Wear personal protective equipment such as disposable gloves, shoe covers and coveralls.
- Inspect all the places on clothing where bedbugs can hide -- shoe treads, cuffs, pockets, purses, bags, hoods and collars.
- Upon returning home from work promptly wash clothes at the hottest recommended setting. Tumble dry clothes on high heat for 30 minutes. Clothes that require dry cleaning should be kept in a sealed plastic bag until dry cleaning.
- Refrain from discussing potential bedbug infestations outside of the workplace.

Remember – when inspecting for bedbugs, look for more than just live or dead bedbugs. Stay alert for small black (fecal matter) or dark red (blood) stains.

News of a bedbug infestation can spread as quickly as the bugs themselves damaging corporate brands and livelihoods. An employer that educates workers and proactively addresses bedbug prevention and infestation will therefore have put itself in a strong position to respond to a work refusal, defend its health and safety record and minimize risk to guests and employees.

Shana French is a lawyer with Sherrard Kuzz LLP, Toronto-based employment and labour law firm representing the interests of employers. Shana can be reached at 416.603.0700 (Main), 416.420.0738 (24 Hour) or by visiting www.sherrardkuzz.com.

The information contained in this article is provided for general information purposes only and does not constitute legal or other professional advice. Reading this article does not create a lawyer-client relationship. Readers are advised to seek specific legal advice from Sherrard Kuzz LLP (or other legal counsel) in relation to any decision or course of action contemplated.