

## **Bedbug lawsuits on the increase**

**Maryland award of \$800,000 sets record, lawyers say, as landlords move to hold tenants responsible**

By Andrea F. Siegel, The Baltimore Sun

Faika Shaaban developed an itchy rash the day she moved into an Annapolis apartment in the fall of 2011. The hundreds of bites, the lesions and the resulting scarring were from bedbugs. She had no idea that she'd rented an apartment whose landlord had been notified of a potential bedbug infestation only weeks earlier, according to her lawsuit against the landlord.

An Anne Arundel County jury awarded the 69-year-old woman \$800,000 this week, an amount that lawyers familiar with such cases said was the highest they have seen. Most of that — \$650,000 — was in punitive damages, more than she had sought. The case highlights the growth in bedbug lawsuits nationwide. And it demonstrates the ire of jurors not only over the insects but also over landlords who they feel didn't deal with a known infestation, said Shaaban's attorney, Daniel W. Whitney of Towson. "She lost practically everything due to this," he said.

He said it was the jury's "opportunity to send a message to the community, to landlords, that you must abate it." The defendant, landlord Cornelius J. Barrett and West Street Partnership, which owns the property and of which Barrett is a general partner, did not respond to the lawsuit, according to Whitney and court records. He could not be reached to comment. In a 2002 case, a jury awarded \$382,000 to a brother and sister who said they were besieged by bedbugs at a Motel 6 in Chicago when they stayed in a room that management knew was infested.

Whitney has more than 75 bedbug cases, nearly all in Maryland, and said he's turned away hundreds of potential bedbug clients in the past two-and-a-half years.

"You are going to see a rapid growth of bedbug claims over the next decade. There are enough lawyers who are getting trained so that people will be able to find lawyers, so that people will find a way to get relief," said lawyer Tom Campbell of Birmingham, Ala., who advises other lawyers.

This week's verdict has landlords taking notice.

A landlord doesn't put bedbugs in a unit, yet "the landlord is being faced with the burden of fixing this problem," said Ben Frederick, president of the Property Owners Association of Greater Baltimore.

Landlords are pushing to shift responsibility onto tenants in leases that say that if bedbugs don't turn up before or soon after a tenant moves in, the tenant must pay for extermination.

Greg Countess, assistant director of advocacy at the Maryland Legal Aid Bureau, said he is increasingly seeing leases that give the landlord reason to terminate a lease and evict a tenant if the landlord can prove a tenant brought in bedbugs. Many landlords, he said, push tenants to buy renters' insurance "to protect property that might be lost due to a bedbug infestation."

"The first time, I will come in and spray. If you don't do all the steps we tell you to do, like clean the bed linen and the clothing, then the next spray is on you. Or you live with them," said Sharon Hooper, president of the Carroll County Landlord Association, who said she has her units regularly inspected by pest control companies.

"Most landlords are documenting, 'Here's what we do,'" said Adam Skolnik, executive director of the Maryland Multi-Housing Association. "We have some landlords who are doing pre-inspections of the unit with dogs that are trained to find bedbugs."

In the Shaaban case, the lawsuit alleged that the infestation had not been cleared up when Shaaban rented the apartment at the end of September 2011, and that Barrett, the landlord, did not respond to another tenant's complaints about bedbugs. Annapolis records show Barrett was taking steps in August 2011 to remedy a mice and potential bedbug infestation.

When Shaaban went in April 2012 to Anne Arundel County housing officials for help in finding a new apartment, Whitney said, she was told the rash was from bedbugs. The landlord's effort to deal with the bedbugs worsened the infestation and damaged her personal property, Whitney said.

When Shaaban was evicted, scavengers took her belongings from the curb — despite her short-lived sign advising people not to, Whitney said. "All of these items went into the community infested," he said.

The structure was cited for other violations, and the landlord fined \$200. The property went into foreclosure, records show.

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## **Background Checks: What Employers Need to Know**

By Julia R. Dippold, Island HR Solutions, Email: [islandhrsolutions@yahoo.com](mailto:islandhrsolutions@yahoo.com)

The Equal Employment Opportunity Commission and the Federal Trade Commission have recently released a joint publication entitled "Background Checks: What Employers Need to Know". This document does not provide any new agency rules or guidance, but does contain "best-practices" guidelines and direct employers to other resources with additional help.

Best practices suggested before an employer gets background information include:

### **EEOC**

In all cases, make sure that you're treating everyone equally. It's illegal to check the background of applicants and employees when that decision is based on a person's race, national origin, color, sex, religion, disability, genetic information (including family medical history), or age (40 or older). For example, asking only people of a certain race about their financial histories or criminal records is evidence of discrimination.

Except in rare circumstances, don't try to get an applicant's or employee's genetic information, which includes family medical history. Even if you have that information, don't use it to make an employment decision. (For more information about this law, see the EEOC's publications explaining the Genetic Information Nondiscrimination Act, or GINA.) Don't ask any medical questions before a conditional job offer has been made. If the person has already started the job, don't ask medical questions unless you have objective evidence that he or she is unable to do the job or poses a safety risk because of a medical condition.

### **FTC**

If you get background information (for example, a credit or criminal background report) from a company in the business of compiling background information, there are additional procedures the FCRA requires beforehand:

- Tell the applicant or employee you might use the information for decisions about his or her employment. This notice must be in writing and in a stand-alone format. The notice can't be in an employment application. You can include some minor additional information in the notice (like a brief description of the nature of consumer reports), but only if it doesn't confuse or detract from the notice.
- If you are asking a company to provide an "investigative report" - a report based on personal interviews concerning a person's character, general reputation, personal characteristics, and lifestyle - you must also tell the applicant or employee of his or her right to a description of the nature and scope of the investigation.
- Get the applicant's or employee's written permission to do the background check. This can be part of the document you use to notify the person that you will get the report. If you want the authorization to allow you to get background reports throughout the person's employment, make sure you say so clearly and conspicuously.
- Certify to the company from which you are getting the report that you:
  - notified the applicant and got their permission to get a background report;
  - complied with all of the FCRA requirements; and
  - won't discriminate against the applicant or employee, or otherwise misuse the information in violation of federal or state equal opportunity laws or regulations.

Additional information is provided for employers with regard to using background information and disposing of background information.

To review the entire document, visit: [http://www.eeoc.gov/eeoc/publications/background\\_checks\\_employers.cfm](http://www.eeoc.gov/eeoc/publications/background_checks_employers.cfm).

(Information for this article was obtained from the United States Equal Employment Opportunity Commission at [www.eeoc.gov](http://www.eeoc.gov).)

This article is intended as information, and is not a substitute for legal or other professional advice.



***In observance of Memorial Day,  
Our office will be closed:  
Sunday, May 25th  
And  
Monday, May 26th***