

*Duplicate*

NORMAN MANLEY LAW SCHOOL

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL LIBRARY

COUNCIL OF LEGAL EDUCATION

MONA, KINGSTON, 7. JAMAICA

LEGAL EDUCATION CERTIFICATE

FIRST YEAR EXAMINATIONS, 1989

*Copy 2*

**FOR REFERENCE ONLY**

LANDLORD AND TENANT

(Friday, June 9, 1989)

Instructions to Students

- a) Time: 3½ hours
- b) Answer FIVE questions.
- c) In answering any question a candidate may reply by reference to the Law of any Commonwealth Caribbean Territory, but must state at the beginning of the answer the name of the relevant territory.
- d) It is unnecessary to transcribe the questions you attempt.

\_\_\_\_\_

QUESTION 1

(a) "The law distinguishes between a lease and a licence for various purposes. In some cases the distinction is justifiable and desirable; in others it is merely silly."

Discuss.

(b) In April, 1988, Alister, a university lecturer, about to go on a year's sabbatical leave, wished to leave someone in occupation of his university house while on leave. He therefore arranged with Ian and Mary, two of his students to stay in the house. They agreed to pay for electricity, water and telephone services, maintain the garden and keep the furniture and interior in good condition.

Alister has now returned from leave and requested Ian and Mary to vacate the premises. They have refused to do so and claim that they are yearly tenants.

Advise Alister.

---

QUESTION 2

Draft a letter of advice to your client, a prospective tenant explaining the meaning and import of the following covenants in a lease:

- (i) that the tenant shall not assign, underlet or part with the possession of the demised premises without the prior consent in writing of the landlord;
- (ii) that the tenant shall have the right of first refusal to lease the demised premises for a further period of three years;

- (iii) that the tenant shall deposit a sum equal to six months' rent against possible breakage or repairs;
  - (iv) that the tenant shall insure the premises for the benefit of the landlord.
- 

QUESTION 3

- (a) Discuss the covenant for quiet enjoyment.
  
- (b) Lager granted a lease of his house for five years to Dr. Heineken for the purpose of residential occupation, with all the usual covenants. At the time of the demise, Lager was in the process of erecting a dwelling house on his adjoining property. For the past month, Dr. Heineken, who examines patients at the demised premises, has been unable to hear any sounds from his stethoscope due to the noise of construction from the adjoining property. Dr. Heineken consults you.

Advise him.

---

QUESTION 4

In 1985, Sylvia leased a house to Rhona for three years. During a severe hurricane in September last year, part of the house was damaged by lightning and half of the roof was blown off. It has been determined by a structural engineer that the roof was faultily constructed.

Advise Rhona whether she is liable to make good the damage under a covenant by her in the lease to keep the property in repair.

Would your advice be different if the lease was silent on the question of repairs?

---

QUESTION 5

In March, 1985, André leased 15 Goodwill Terrace to Byron by deed for seven years at a rent of \$20,000 per annum payable quarterly. In the lease, Byron covenanted inter alia not to use the property for purposes other than residential.

In June, 1987, Byron assigned the lease to Carol who, nine months later, sub-let to Dorcas for the remainder of the term less one day. Since then André has conveyed the reversion to Rose who has now discovered that the rent due from Carol is two years in arrears and that Dorcas has started to run a club and discotheque in the house.

Advise Rose.

---

QUESTION 6

(a) Advise upon the validity of the notices to quit served in the following circumstances:

- (i) Emma, who has been Brown's tenant at will for two and one-half years has been telephoned by Brown and orally requested to vacate the furnished studio flat in question "within seven days of the receipt of this notice".

(ii) Green has a monthly tenancy of 55 Key Drive, rental being payable on the 2nd day of each month. On April 5, 1989, he received written notice to quit "not later than June 8, 1989".

(iii) Jeremy and Jean White, are quarterly tenants of a four-bedroom house with garage and out-houses. The landlord has given them written notice to "quit and deliver up possession of the garage and adjacent spare bedroom" as he wishes "to convert this part into a small self-contained flat".

(b) In November last year, Harvey entered into a tenancy for three years, of commercial premises located on a main road, and commenced a supermarket business.

In January of this year, the Road Works Department began re-surfacing work on the road. Soon after, it was discovered that there was a large fault in the earth just beneath the road. As a result, major road work was required. The road has now been closed to both pedestrians and motorists, and is likely to remain closed for at least six months.

As a result of the closure, Harvey's business can no longer operate and he has had to close it. He now seeks your advice.

Advise him.

---

QUESTION 7

(a) Distinguish between illegal, irregular and excessive distress.

(b) On August 1, 1988, Kendal, a disco operator, became the monthly tenant of a furnished studio apartment owned by Paul at Linden Gardens. He had been introduced to Paul by his friend, Orville, who had been paying \$300 per month immediately before he vacated in favour of Kendal. Kendal agreed to pay Paul \$370 per month but after six months, told Paul that the rental was too high and that the place was only worth \$300 per month. Paul has refused to accept the lower sum offered by Kendal. In February this year, Paul gave Kendal one month's notice to quit. Kendal has refused to vacate the premises and has paid no rent since.

On May 16, Paul with two of his associates, entered Kendal's flat by means of Paul's duplicate key and took away a television, two radios and most of Kendal's recording equipment worth thousands of dollars.

Advise Kendal.

---

QUESTION 8

Edgar, since 1979, has had a weekly tenancy of two unfurnished rooms with use of bathroom and kitchen, part of a larger house at Shirley Street. The house is subject to Rent Restriction/Control Legislation. The house was never in good repair and the landlord has done little over the years, but in recent months rain has been penetrating his children's bedroom, the kitchen window has been hanging on one hinge and the back step has completely crumbled and is dangerous. Edgar has repeatedly asked the landlord to do repairs and finally he began to withhold half of the weekly rent.

This practice continued for twelve weeks, until three days ago when the landlord instituted proceedings for the recovery of rent.

- (i) Edgar seeks your advice as to his legal rights.

Advise him.

- (ii) Would your advice be different if Edgar had paid for the repairs to be done and was withholding part of the rent to recoup the amount expended?
-