

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, 1982

LANDLORD AND TENANT

Tuesday, May 18, 1982

Instructions to Students

- a) Time: 3½ hours
- b) Answer FIVE questions.
- c) In answering any question a student 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

Advise the parties in the following circumstances:

(a) M and Y entered into an agreement on January 1, 1979 whereby Y let premises at 6 Sandhurst Road to M at a nominal rent of \$50 per month as long as she continued to do secretarial work for his business. He also provided her with an electric typewriter to use at home. M has paid the rent regularly and undertook all the secretarial duties efficiently and promptly. In January this year Y sold his business to Xeco who also bought the premises at 6 Sandhurst Road. Xeco has served M notice to quit on May 30, 1982.

(b) Ash has been in occupation of five acres of hillside land in Orange Valley since August 1, 1981. He cultivates mainly root crops and has terraced the land and installed a water tank. The landlord, Tuff, recently entered the premises and cut down a row of poui trees which provided a windbreak for the cultivation and also prevented erosion. Tuff claims that he is entitled to the timber and that he intends to replace the poui trees with pimento which will be more profitable.

Ash brings an action for trespass against Tuff who serves him with notice to quit immediately.

QUESTION 2

In January 1979, L executed a lease in favour of O for one year at a rental of \$4,500. The lease provided, inter alia, that if the lessee desired "to continue the term" for a further period of one year and so advised the lessors before November 30, 1979, the lessors would, subject to certain conditions, "lease the demised premises for a further period of one year..... (at an increased rental) but subject otherwise to the same terms, conditions and stipulations as are herein contained save and except this present clause for renewal."

Clause 10 of the lease provided "For a further consideration of \$1,750 which shall be paid on the signing hereof the lessors hereby grant to the lessee an option to purchase the demised premises such option to be exercised within the term hereby created."

O remained in occupation after the term ended paying an increased rent and in October 1981, purported to exercise the option to purchase. In November 1981, O entered into an agreement to sell the premises to P. The stipulated date of completion of sale was March 31, 1982.

Advise L, O and P as to the validity of the exercise of the option and the effect of the proposed sale to P.

QUESTION 3

Property Development Ltd. wish to offer standard leases for each of their following schemes -

- (i) Subdivision of lots on Birmshire Bay for disposal as building leases:
- (ii) A shopping plaza in a recently developed residential estate.

What special considerations would you bear in mind when taking instructions for these leases?

QUESTION 4

M has been the tenant of premises in Orange Street, Kingston, since 1974. She uses the premises for the manufacture of school uniforms. The rent of \$400 is payable on the last day of each month, in advance, and M is also responsible for payment of water and electricity bills. M alleges that she entered into a written agreement for a tenancy with the landlord, Downtown Development Company. She has no copy of such agreement. On September 22, 1981, the Downtown Development Company served M with notice to quit for non-payment of rent which M agrees has been in arrear for six months. She claims, however, that the premises have been in a bad state of repair for years, and that, during the heavy rains in July 1981, water seeping in through the defective roof caused considerable damage to bales of cloth which she stored on the premises for her business. She had claimed compensation from the Downtown Development Company which denied liability.

The company claims that it was orally agreed that the tenant would be responsible for maintaining the premises in a reasonable state of repair. M claims that the written agreement contained a term making the landlord responsible for all repairs and that the company had in the past entered the premises to put security locks on all the doors.

Advise M who is now being sued for repossession of the premises. arrears of rent and mesne profits.

QUESTION 5

Advise the parties:

(a) Progress entered into an oral agreement with Warfers Ltd. for a yearly lease of a warehouse in downtown Kingston from February 1, 1982, at a rent of \$500 per month. He used it for storage of locally manufactured leather goods prior to exporting them to various Caribbean countries. Unfortunately, the factory which produced the leather goods had been closed since mid-March 1982, pending settlement of a labour dispute over wages. Progress does not feel it would be worthwhile for him to continue to rent the warehouse after the end of May 1982, when the present supply of goods would be exhausted.

Advise him how the lease may be terminated.

QUESTION 5 cont'd.

(b) Noddles Ltd. occupies an office block in Crossroads under a five-year lease at a quarterly rent of \$5,000. The lease contains a covenant against assigning and underletting and gives the landlord, Cash, a right of re-entry for any breach of covenant by the tenant. Noddles Ltd. is having financial problems and is unable to maintain the whole premises. It grants a sublease on a monthly basis of the ground floor to its subsidiary, Foods Ltd. to use as a fast-foods restaurant. Cash wishes to sell the block.

Advise him how the lease may be terminated.

QUESTION 6

L, a lecturer at the College of Learning in Kingston, opts to find his own accommodation and accept a housing allowance of 20% of his salary each month rather than to occupy accommodation provided on the College campus which would cost him 10% of his salary each month. Since September 1981, he has let the 'helper's room' to a student, Paul, who pays him \$230 per month which includes the cost of electricity and water. Paul also undertakes to babysit when L goes out in the evenings and on each occasion that he does so, he is given a \$5 rebate on the rent for the month.

To comply with the usual formalities required by the College, the property is let by the owner, Z, to the College on an annual basis from September 30 of each year, and the College then sublets to L on a monthly basis.

In March 1982, L terminated his contract with the College and left the country. The College has threatened to evict Paul claiming that he is a mere trespasser, and that the premises are required for occupation by another lecturer. Paul seeks your advice. He is very anxious to remain in occupation since he has to take his final exams in December 1982, and has neither the time nor the financial resources to find other accommodation in the middle of the academic year.

QUESTION 7

M, J and R share an apartment in New Kingston which they occupy on a monthly tenancy at a rent of \$850 from Penthouse Ltd. In June 1981, they made an application to the Rent Board to fix the standard rent. The Board considered the application in December 1981 and fixed the standard rent at \$1,000 per month. M, J and R are very disconcerted by this. They claim that the procedure followed by the Board was unfair since no valuator was ever sent to the apartment. They claim further that when they attended the hearing of their application, the Chairman had introduced them to all the persons sitting around the table before commencing the hearing and had advised them that they had a right to cross-examine the valuator, but when the valuator gave evidence, they had no idea that he was thereby submitting his valuation report. Consequently, there was no cross-examination at all.

Advise M, J and R whether they can pursue the matter further.

QUESTION 8

Advise the parties as to their legal rights in the following circumstances:

Bauxeco, a mining company, was granted a 25-year mining lease over 1,500 acres of land in the parish of St. Ann in 1973. It wishes to start operations on five acres which are occupied by Thrift and Hardy who are employees of Percy, owner of a 1,000 acre plantation which covers some of the areas included in the mining lease. Thrift and Hardy have no formal agreement with Percy but during the ten-year period they have occupied the land, they have build an attractive two-storey residence for their families on the land and cultivated citrus and food crops; and have established a boundary line of coconut palms around the quarter-acre plot on which the house stands.

Bauxeco has begun to -

- (a) bulldoze the area covered by the palms and intends to demolish the citrus cultivation;
- (b) cut an access road from its smelter which is located just beyond the 1,500 acres over which it has the mining lease. The road will cut through Percy's plantation;

QUESTION 3 cont'd

- (c) evict, having served three months to quit, one hundred small farmers who cultivated an area of 250 acres owned by Bauxeco within the area of the mining lease. Bauxeco had since 1974 granted them yearly tenancies, to clear the bush and to cultivate food crops, but claims that the land is now required in connection with its mining operations.
-