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NOT TO BE TAKEN AWAY

NORMAN MANLEY LAW SCHOOL  
COUNCIL OF LEGAL EDUCATION

FOR REFERENCE ONLY

LEGAL EDUCATION CERTIFICATE  
FIRST YEAR EXAMINATIONS, 1987

LANDLORD AND TENANT  
(Friday, May 22, 1987)

Instructions to Students

- a) Time: 3½ hours
- b) Answer any FIVE (5) 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

Wayne Martin is the owner of "Adventure" a property with a main house and two cottages thereon. You are instructed to advise briefly as to the nature of the legal relationship between the parties and their consequential rights in the following circumstances:

(a) In 1984 Kirk Norton was employed by Wayne as his chauffeur and estate manager for "Adventure". Norton was paid a weekly salary and as part of his remuneration for his services he was permitted to use a flat behind the Main house at "Adventure" as his residence. Wayne's nephew has recently come to live at "Adventure" at the Main house and Wayne no longer wishes to continue the arrangement with Norton as his nephew is being very helpful with driving Wayne around and managing the estate.

(b) From 1981 Wayne's son Mark Martin has lived in the smaller cottage at "Adventure". Wayne had given Mark permission to occupy this cottage as Mark had been evicted from his own house and he was unable to find alternative accommodation.

After Mark had been living in the cottage for a month Wayne began reminding Mark that the arrangements were only temporary. <sup>Mark</sup> Wayne, however, did not remove because he now found the cottage quite to his liking and by early 1982 Mark invited his girlfriend Julia to live with him in the cottage.

Wayne made repeated requests to Mark to leave the cottage but Mark refused to deliver it up.

Julia now has two children for Mark and Mark has lived at a new address for the past six months. Wayne has not yet asked Julia to leave but now wishes to evict her and the two children.

(c) Wayne Martin entered into an oral agreement with Dulcie Lovelorn for the latter to occupy the other cottage in 1984. Dulcie Lovelorn occupied the cottage for two years but thereafter she ran into financial difficulties. To resolve her problems Dulcie verbally agreed to let her girlfriend Yola live in the cottage for a few months and for Yola to pay the rent to Wayne. Wayne verbally consented to Yola taking Dulcie's place for a few months. However a year has now passed and Dulcie has not returned. Wayne decides he must put an end to this arrangement because he does not like Yola's rastafarian boyfriend who frequents the cottage. He therefore visited the cottage one morning and placed a padlock on the front door.

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QUESTION 2

L entered into verbal negotiations with T for the execution of a lease for a period of five years certain with an option to renew for a further term. T entered into possession of the property and thereafter paid rent on a monthly basis. Three months later L wrote to T confirming the terms of their oral agreement and T signed the letter acknowledging the terms set out in the letter.

After a further nine months, L served T with one month's notice to quit which has now expired. L thereupon commenced ejectment proceedings against T.

Advise T.

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QUESTION 3

Dayton Ltd. wishes to offer standard leases for the following schemes:

- (i) an office and shop complex recently constructed to service a residential estate; and
- (ii) twenty town-houses in a recently developed scheme.

Prepare two separate checklists of the matters you would bear in mind when taking instructions for these leases.

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QUESTION 4

L entered into a written agreement for a monthly tenancy with T on the following terms:

- (i) That T would pay a security deposit of \$5000 at the commencement of the term. \$2500 of this amount would be refunded to T on the expiry of the tenancy provided that T did not owe L any money under the agreement. The other \$2500 would be a fee paid by T to ensure his getting the premises.
- (ii) That T would pay rental of the local equivalent of \$500 (United States).
- (iii) That T would be responsible for taking proper care of the premises.

Six months after the commencement of the tenancy the following occur:

- (a) T's friends tell him that the \$5000 paid to L is not only unfair but is totally illegal and T claims this amount from L.
- (b) The United States dollar falls considerably against the local currency to L's disadvantage and L advises T that their previous agreement for rental is 'void for uncertainty' and that they must agree on a new figure for rent in the local currency.

- (c) The wood in the roof and floors had been badly affected by dry-rot and were in an advanced state of decay. T had written to L two months before requesting him to see to the replacing of the wood. However, after several attempts to deliver the letter to L at his home and not finding L, T puts the letter aside. L's wife, however, has been to the rented premises as she usually collects the rent for L and she has not only been told of the rotting wood but she also fell on one occasion in the house because of a loose plank on the floor. Three days ago a large hole appeared in the roof of the living room and as this was the "hurricane season" T proceeded hastily to fix both the roof and the floors. From the rent which is due this month T has deducted the sum equivalent to the cost of the repairs.

Advise T as to his rights and liabilities in each of the foregoing instances.

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QUESTION 5

Ace rented certain premises to Bee. It was an express term of the tenancy agreement that Bee should not assign, sublet or part with possession of the premises without the consent of the landlord Ace. Bee parted with possession of the premises to Cee without seeking Ace's consent when there was still a period of six months remaining under the term created by the tenancy. Ace did not like the idea of Cee taking over but as Cee paid his rent punctually Ace accepted rent for the next two months. Ace thereafter commenced ejectment proceedings.

Advise Cee who not only wishes to remain in possession for the balance of the term but who also wishes to exercise the option to renew contained in the tenancy agreement.

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QUESTION 6

"The rule .... although founded on broad principle is nevertheless highly artificial and dependent entirely on precedent...." Harrison v Wells [1966] 3 All E.R. 524, per Salmon J at P 527.

Examine, in light of the view expressed above, the rule that a tenant is estopped from denying his landlord's title and comment on the exceptions to the rule.

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QUESTION 7

EITHER A

In June 1986 T rented two rooms from L on a monthly tenancy. In December 1986 L sells the building in which the two rooms are housed to P. When P inspects the existing records for the tenants of the building he discovers that T owes rent totalling \$150 for the months of August, September and October 1986. P immediately makes a demand on T for the amount owing whereupon T clandestinely removes all his possessions to his sister's house.

The following day P discovered what had taken place and sent his business partner B to T's sister's house to levy distress on the goods. B forcibly entered the house and took all of T's wearing apparel, certain tools of his trade and his oil painting of 'The Last Supper'.

It turns out that T had previously gone to his sister's house and removed everything else of value to a newly rented house. P is unable to get any offers to buy the clothing and tools and he fears the painting may be a worthless imitation. P therefore visits T's newly rented house and takes his watch and colour television.

Advise T as to his rights.

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OR B

Mrs. Mary Stokes recently became the owner of 28 Bay View Terrace. These premises are subject to the provisions of the Rent Restriction Legislation. Mrs. Stokes up to this time has lived in a comfortable apartment provided for her husband by his firm. Since acquiring the house Mrs. Stokes has become anxious to move into it because of its larger garden and separate study for her husband.

She starts proceedings for recovery of possession against the tenants, an elderly childless couple who have been tenants in the house for 35 years and who have complied with all their obligations under their tenancy. Mrs. Stokes's ground for recovery of possession is that she reasonably requires it for occupation by herself and family.

- (i) Advise Mrs. Stokes of her chances of succeeding in recovering possession.
- (ii) Would your answer be different if Mrs. Stokes needed the house to accommodate her widowed mother and two maiden aunts whose home had been damaged beyond repair by fire and who would otherwise have had to move in with Mrs. Stokes and her family?

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QUESTION 8

EITHER     A

"Rent Restriction Legislation is not and never was designed to secure economic rents for landlords, nor was it designed to adjust existing bargains made between landlords and tenants for economic reasons." National Employers Mutual General Insurance Association Ltd. v Pan American World Airways Inc. and Others (1959), W.I.R. 461, per Blagden J, at P 466.

"The Rent Restriction Ordinance is a law for the protection of tenants and not for the penalization of landlords." Mohan v Ramjag (1969), 14 W.I.R. 500, per Phillips J.A. at P 503.

Discuss these views of Rent Restriction Legislation with particular reference to rent fixing formulae and security of tenure provisions, illustrating your answer by reference to judicial interpretation of the provisions.

OR             B

- (i) With reference to decided cases and any relevant statute, distinguish between illegal, irregular and excessive distress.
  - (ii) What is replevin and when is it available?
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