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U.W.I. MONA, JAMAICA

LEGAL EDUCATION CERTIFICATE EXAMINATIONS 1975

LANDLORD AND TENANT

Instructions to Students

- a) Time: 3½ hours.
  - b) Answer FIVE questions only.
  - c) It is unnecessary to transcribe the questions you attempt.
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QUESTION 1.

On the 15th April, 1975, a Resident Magistrate for Kingston ordered T to vacate three rooms she occupied (as a monthly tenant since 1973), at the instance of her landlord, Mr. L, by the 31st May, 1975.

T occupied two of the rooms with her three children and used the third room to carry on her business as a hair dresser. She had always had difficulties in meeting her rental payments.

On the 15th May, 1975, T consults you as to the effect of the order of the Resident Magistrate, and states her inability to vacate the premises by the 31st May, 1975.

Advise her and draft an Application for an Extension of Time.

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QUESTION 2.

T was a monthly tenant of L, paying his rent on the 5th of each month.

On the 5th May, 1975, he received the following notice from L :-

"To: T.

I, the undersigned GIVE YOU NOTICE to quit and deliver up possession of one room, the premises at 10, Water Street, in the parish of Kingston in respect of which you are tenant on the 5th June next or at the end of the month of your tenancy which will expire next after the end of one month from the date of the service of this notice to you.

Dated this 5th day of May, 1975.

Signed: L.

Served: L. "

On the 5th June, 1975, T tendered his rent of \$10 to L, but L refused to take it, insisting that T vacate his premises at once. T remained and on the following day, while T was resting in bed in his room, L came to the window of the room and said: "You not leaving?" He then pushed the window (which was wooden) which gave way, a part of it falling into the room.

L then came to the door of the room, turned the knob and flung the door with such force that it hit against a cabinet toppling it. The glass of the cabinet and the china therein, all got broken. L then shouted: "If you don't come out now it's either I kill you or you kill me".

T, who was able to escape unhurt, now consults you.

Advise him on the various issues.

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QUESTION 3.

Furnishings Ltd., who are dealers in furniture, let certain goods on hire purchase to T, who was the tenant of L in respect of premises at 10, Farm Street. The goods were a refrigerator and a radio valued at \$500 and \$100 respectively.

After two-thirds of the agreed price had been paid, T, being in arrears for three months, was duly served with a "notice of default" by Furnishings Ltd. on the 15th May, 1975, demanding payment.

At the same time, T was in arrears of his rent in respect of 10, Farm Street, in the amount of \$500 and on the 20th May, 1975, L levied distress on his premises and took away the refrigerator and radio.

Furnishings Ltd. who learnt of the distress on the 21st May, 1975, consults you on the same day.

- (a) Advise them.
  - (b) Assuming that Furnishings Ltd. have a right to the goods, as against L, draft any necessary document(s) on behalf of Furnishings Ltd. to secure their goods.
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QUESTION 4.

(i) L granted a lease to T and T sub-let it on a yearly basis to S. As the result of a dispute between L and T, L purported to terminate T's lease and to re-let the premises to one H & Co. H & Co. then gave notice to S that he should pay the rent to them in future and S did so. T then sued S for the rent and S interpleaded.

Advise T.

(ii) L owned certain premises and mortgaged it to M. L then let the premises to T. L having defaulted in his payments, M demanded the rent from T and threatened him with eviction for his refusal to pay. L also demanded the rent.

Advise T.

(iii) Are there any circumstances in which the tenant may have to give up possession before his action or defence denying his landlord's title?

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QUESTION 5.

(i) By an instrument under seal, made between L and T, L leased premises known as 10, Long Street, to T for a term of 10 years commencing from the 1st January 1964 at a monthly rental of \$40 subject to the covenants, conditions and agreements contained in the said lease and to the covenants, conditions and powers expressed or implied by Statute except as negatived or modified by the express terms of the lease.

At the expiration of the term, T demanded a renewal of the lease for a further term of 10 years at the same rent of \$40. L, however, offered a renewal for a further 10 years but at a monthly rental of \$50, which T has refused to pay.

The operative covenant in the lease was as follows:-

"In the event of the lessee being prepared to lease the demised premises for another term at the expiry of the term hereby created the lessee shall have the first refusal to lease the demised premises for a term of ten years commencing from the expiry of the term hereby created first refusal to be exercised by the lessee on or before the expiry of the present term."

Consider whether T can justify his demand and the likely consequences of his refusal to pay the increased rent.

5. (ii) A lease contained an option for renewal "for a further term of 21 years at a rent to be fixed having regard to the market value of the premises at the time of exercising this option taking into account to the advantage of the tenant any increased value of such premises attributable to structural improvements made by the tenant during the currency of this present lease".

Consider this clause in relation to the concept of uncertainty.

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QUESTION 6.

T rented a room from L on a monthly tenancy, the rent being payable on the 28th of each month. L served T with a notice to quit "on February 28, 1975, next or at the end of the month of your tenancy which will expire next after the end of March 28, 1975".

T continued in occupation whereupon L took ejectment proceedings against him. After the service of the summons on him, T removed to new premises on April 25, 1975, taking all his goods with him. In the evening of April 25th, T visited the home of L and handed L the keys to the room which L accepted in the presence of other persons saying he was glad that T had removed.

On May 26, 1975, at the instance of L, a landlord bailiff levied distress on the goods of T at his new address for arrears of rent to April 28, 1975.

T now sues L for trespass arising out of an illegal levy.

Advise L.

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NOTE the following provisions:-

The Rent Restriction Act: "A tenant who, under the provisions of this Law, retains possession of any premises, shall, so long as he retains possession, observe and be entitled whether as against the landlord or otherwise, to the benefit of all the terms and conditions of the original contract of tenancy, so far as the same are consistent with the provisions of this Law (Act) and shall be entitled to give up possession of the premises only on giving such notice as would have been required under the original contract of tenancy."

The Landlord and Tenant Act: "In case any tenant ... of any tenements ... upon the demise or holding whereof any rent is or shall be reserved due or make payable, shall fraudulently or clandestinely convey away or carry off or from such premises his goods or chattels, to prevent the landlord .... from distraining the same for arrears of rent so reserved due or made payable, it shall and may be lawful for every landlord ... or any person by him .... for that purpose lawfully empowered, within the space of thirty days next ensuing such conveying away or carrying off such goods or chattels as aforesaid, to take and seize such goods and chattels wherever the same shall be found as a distress for the said arrears of rent."

QUESTION 7.

John Thomas, the owner of certain controlled premises known as Lot 10, Sufferers Row, has just returned from abroad having won ¼ million dollars on the Football Pools. He has decided not to work for the rest of his life and to live frugally.

While abroad he had let his premises, which consisted of three rooms, to Tom Stokes, a labourer, who occupied it with his wife and ten children, at a rental of \$20 monthly although the maximum permitted rent was \$30 monthly.

John Thomas has been trying unsuccessfully to persuade Stokes to leave the premises so that he can occupy it with his wife and two young children. He has offered to find Stokes alternative accommodation in two areas of the city, but in the one Stokes says that it is a high crime area and in the other that there is no running water in the house and he is not prepared to use the standpipe provided for persons living in the area. Thomas further offered Stokes \$100 if he would leave but Stokes has refused it. Thomas now informs Stokes that if he wants to stay he will have to pay a monthly rental of \$30, whereupon Stokes replied that he has no intention of paying any rent exceeding \$20 monthly.

Thomas has now served Stokes with a notice to determine the tenancy.

What are the chances of Thomas being able to recover possession of his premises through the Court?

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QUESTION 8.

Que 2 (i) By an agreement in writing but not under seal, T leased certain premises from L as tenant from year to year at a rental of \$100 payable quarterly. T then formed a company and being desirous of assigning the lease to the company sought and obtained the written consent of L to the assignment which was given on condition that the assignment should not affect the stipulations in the original agreement. The company then went into possession but without any written assignment of the lease. Shortly after, the company defaulted in payment of rent.

L now sues T for the rent and T claims that the company only is liable.

Advise T.

(ii) Assuming that L had assigned his reversion to R, could R successfully sue T for the arrears of rent accruing before the assignment?

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LEGAL EDUCATION CERTIFICATE  
SUPPLEMENTARY EXAMINATIONS, 1975

LANDLORD AND TENANT

Instructions to Students

- (a) Time: 3½ hours.
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QUESTION 1.

J owned commercial premises known as No.1 Commeracre, the same being controlled premises. He formed a private company in which he became Managing Director and took shares therein to the value of No.1 Commeracre which he transferred to the company.

J now consults you and tells you that he has given T, the monthly tenant of No.1 Commeracre, notice to quit as his Company requires the premises for carrying on the business of dealers in motor cycles.

Advise J on the question of recovering possession against T.

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QUESTION 2.

In 1970, Joe Thomas became the lessee for a term of 21 years of certain premises known as "Nyam" which he occupied as a restaurateur. He installed gas ranges, counters, air-conditioning units, chandeliers and partitions.

In 1974, Thomas orally agreed with Tom Authurs for the assignment to Tom Authurs of the remainder of the term and accepted a deposit of \$500 from Authurs and gave him a receipt.

Thomas now informs Authurs that he requires his "fixtures" for re-installations in another restaurant he has purchased.

Advise Authurs.

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QUESTION 3.

Outline the main considerations you would be interested in when taking instructions for a lease distinguishing between leases of dwelling houses and commercial buildings.

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QUESTION 4.

John Dread, who is the proprietor of The Dread Music Company, placed his juke box in the custody of Pearl Panther, who operates a bar on West Road, under an agreement in which John Dread was to receive a percentage of moneys collected in the juke box.

On the 1st September, 1975, Joe Seiser, a landlord bailiff, acting on the instructions of Roy Green, the landlord of Miss Panther, levied distress at Miss Panther's bar in respect of rent owed by Miss Panther and took away the juke box.

Draft any necessary document on behalf of John Dread that may entitle him to recover his goods.

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QUESTION 5.

T, who is the tenant for life of property known as Blueacre, consults you as to his powers, rights and duties of leasing.

Advise him.

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QUESTION 6.

(i) L owns a 5-apartment dwelling house which was let to T. The standard rent was fixed at \$1,000. After T's tenancy expired, L let the 5 apartments singly to A, B, C, D and E for use as offices and fixed their rental at \$300 each monthly.

E, who is in arrears of rent, claims that his tenancy is invalid as L did not apply to the Rent Assessment Board to fix a standard rent before his term commenced.

Advise E.

/(ii) ...

(ii) Had L let the premises to A, B, C, D and E for use as dwellings, on what basis should their respective rentals be fixed.

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QUESTION 7.

Outline the extent to which the ordinary law of landlord and tenant has been modified by the Agricultural Small Holdings Act, in relation to security of tenure, compensation and fixtures.

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QUESTION 8.

Draft a form of assignment of a lease from the original lessee to a third party for \$10,000. The lessor is to be a party to the assignment to release the lessee from the covenants in the lease.

Particulars:

Lessor: AB Ltd. of No.12 Orange St., Kingston.  
Lessee: XY Bank Ltd. of No.5 Harbour St., Kingston.  
Assignee: Mr. John Brown of No.10 Oxford St., Kingston,  
Merchant.  
Property: No.76 Half-Way-Tree Rd.  
Term: Ten years from the 1st day of January, 1972.  
Rental: \$12,000 p.a.

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