

NORMAN MANLEY LAW SCHOOL  
Council of Legal Education

LEGAL EDUCATION CERTIFICATE  
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 1983

LANDLORD AND TENANT

August 15, 1983

Instructions to Students

- a) Time: 3½ hours
- b) Answer FIVE questions only.
- 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

W, whose teenage children were abroad attending College, agreed in September 1980 to let A, B & C into possession of a part, comprising two bedrooms with an attached bathroom and a small kitchenette, of his large dwelling house. A, B & C were final year medical students at that time and agreed that they would vacate the rooms when W's children returned home at the end of their studies in September 1981. The consideration was to be \$400 per month to include the cost of utilities. W's wife who missed her children terribly was very kind to A, B & C and provided them with substantial meals daily in return for which A, B & C assisted her with the household chores and the gardening.

W's children did not return in September 1981 and in December of that year W and his wife went abroad to join them. A, B & C were let into possession of the whole house and continued to pay \$400. In January 1982, W decided to sell the property and A, B & C who were reluctant to give up the accommodation agreed to purchase it. However, having paid the deposit A, B & C experienced great difficulty securing a mortgage since, although there was little doubt that they would find employment at the end of their internship in September 1982, the mortgage company was unwilling to make the loan until they were in fact employed.

W, who needed money to cover his living expenses abroad, in August 1982 reluctantly agreed to sell the house to P who had lived abroad for many years and was going home following his retirement and the sale was completed in January 1983. P now wishes to recover possession of the premises.

Advise A, B & C as to their status vis à vis the property.

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QUESTION 2

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(a) Chopin, the freehold owner of 10 Kings Mews, in 1981 leased the premises to Frantz for two years at an annual rental of \$1,200. A few weeks later Chopin was faced with severe financial difficulties. He therefore orally agreed to grant Hans a three year lease of the premises to run concurrently with Frantz's lease and to take effect in possession in the third year in return for a loan of \$1,500. The lease also contained an option to renew for a further three year period if Chopin was unable to repay the loan. Frantz moved out of the premises at the end of his two year lease and Hans now claims possession of the premises. He informs you that it is essential for him to get possession of the premises for his newly married daughter and that he would like to exercise the option to renew.

Advise him.

(b) A orally agreed to let premises at 18 College Hill to Studios for a period of four years to commence on September 30, 1982. Studios had resigned from her employment and was hoping to start her own stenography services on the rented premises. She experienced difficulties purchasing a typewriter and informed A that she would prefer to commence the tenancy on October 30, 1982.

On October 15, 1982 Studios was asked to continue her employment with her former employers on very attractive terms. She therefore informed A by letter that she no longer needed the accommodation. A was very upset having already lost one month's rent and having spent a lot of money in seeking references for Studios and adapting the premises for her purposes.

A now consults you with a view to bringing an action for specific performance.

Advise him.

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QUESTION 3

In 1972 Bee Ltd. entered into an agreement with Realtor Ltd. for a five year lease of a town house to be used as an office for its managing director, Zee. On entering into possession, Bee Ltd. furnished the premises with fitted carpets and beautiful velvet curtains with heavy brass fittings. Zee installed his own furniture since he wanted to give his office an individual touch.

At the end of the five year term Zee remained in possession pending completion of negotiations between Bee Ltd. and Realtor Ltd. for a new lease. In 1978 a new lease for a five year term was executed at a higher rent and Bee Ltd. paid \$2,000 as consideration to cover the period when Zee remained in possession pending the new lease.

The new lease included an option to renew at the end of the term - the rent to be fixed by agreement between the parties to take into account any changes in circumstances. During the second term Zee installed an outside bar for entertainment purposes and extended the garage to accommodate his two cars.

In 1982 Realtors Ltd. sold the premises to Bertram, and in 1983 when the second term expired Bertram stated that he was only willing to renew the lease if Bee Ltd. was willing to pay a new rent which would take into consideration all the fixtures and improvements on the premises which he claims became part of the premises, Zee having failed to remove them when the term expired by effluxion of time in 1978 and 1983.

Advise Bee Ltd whether they are entitled to exercise the option without agreeing to pay for the fixtures and improvements.

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QUESTION 4

Mayne the owner of an attractive house in Seymour lands granted Developers Ltd. a fifteen year building lease of the one acre plot of land which comprised half of the property. Permission to subdivide was obtained prior to completion of the contract. Both parties proceeded on the understanding that Developers Ltd. would construct a block of 4 two-bedroom apartments on the site.

It was agreed that for the first two years of the lease the rental would be \$500 per annum payable half yearly and thereafter the rental would increase to \$5,000 per annum. The agreement also gave Developers an option to purchase the freehold anytime after the tenth year of the lease.

Advise the parties in the following circumstances:

(i) Following a change in the personnel of the Town Council planning permission is very difficult to obtain and Developers Ltd. decide that they cannot go through with the deal.

(ii) Due to various factors - lack of capital, shortage of material and labour problems - Developers Ltd. are unable to begin construction one year after the commencement of the lease. They claim that the contract is frustrated. Mayne is anxious to continue with the arrangement since he does not himself have the capital to develop the plot.

(iii) At the end of the lease Developers Ltd. purported to exercise the option. Mayne argues that the option has lapsed since the lease has terminated by effluxion of time.

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QUESTION 5

B has a five-year lease of commercial premises in Crossroads. The lease provides, inter alia:

(i) that the tenant will not use the premises as a bakery or patty shop.

(ii) that the tenant will pay all the rates and taxes as they fall due on the premises.

(iii) that the tenant will maintain the premises.

Advise B as to his liabilities under the lease in the following circumstances:

(a) The Town Council in pursuance of its obligations under the Public Health Legislation is laying a sewer pipe along the highway and has imposed a rate of \$500 on each property owner to defray the costs. The Council has also made it obligatory for all occupiers to pay the full cost of connecting the sewer pipe to all outflows on their premises.

(b) B operates the premises as a grocery but one section of the grocery is devoted solely to bread, biscuits, cakes and patties which are freshly prepared everyday by B's wife and are very popular with office workers and shoppers in the area. The landlord issues him with a notice that he is in breach of covenant and that he intends to repossess the premises.

(c) Faustos, a passerby, was injured when he tripped on a loose flag-stone on the pavement outside the shop and is claiming damages against B for his injuries.

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QUESTION 6

T has for the past four years been the tenant of a two-bedroom flat in Hermitage at a rental of \$150 per month which she has paid regularly. In January 1983 Z purchased the flat and requested T to give up possession since he claims he needs the flat for his teenage son who is to commence his studies at the University in September.

Advise T on the following facts:

(a) T was unwilling to move since her children were doing very well at the local school and accommodation in the area was very scarce. In April Z decided to padlock the front gate. T broke the padlock and regained possession. Z now threatens to sue T for trespass.

(b) T gave up possession in consideration of a payment of \$500 by Z and provision of alternative accommodation. Two months later she wishes to regain possession of the premises since the accommodation she had moved to was very unsuitable for her family. It appears also that Z is not using the accommodation for his son but rather has decided to convert it into offices for his own use.

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QUESTION 7

(a) X is the owner of five apartments in New Kingston which he has let on standard fifteen year leases all of which commenced on July 1, 1975. All the leases provided for payment of \$500 per month in the first year and an increase of \$50 per month in each of the succeeding years until the end of the tenancy. In August 1978 X built a swimming pool for the use of all the tenants and on application to the Rent Assessment Board was granted an increase of \$20 per month.

Advise X as to what the standard rent for each of the apartments will be on the basis that only one of the tenants has been in possession since the beginning of the ten year period. The four other tenants took possession on July 1, 1976; October 6, 1978; August 30, 1979; and October 31, 1980 respectively. In each case the incoming tenant was let into possession for the remainder of the fifteen year term.

(b) S the tenant of a three-bedroom flat in College Crescent shares the accommodation with two fellow students, Theresa and Ursula, who each pays monthly to S one-third (1/3) of the rent for the premises. All three contribute to the expenses of cleaning and general maintenance. In April this year S left the premises suddenly and the landlord has threatened to evict Theresa and Ursula. Both had paid their share of the rent due to S. They inform you that they cannot afford to pay an extra one-third (1/3) but that they would like to remain in possession of the premises.

Advise them as to their liability for rent.

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QUESTION 8

(a) Ash occupies ten acres of land in Westmoreland under a five year contract of tenancy. The landlord uses the adjoining twenty acres as a cattle and pig farm and on several occasions in the past three months the cows have caused damage to his rice cultivation which covers five acres of his farm adjacent to the landlord's farm.

Ash also has an agreement with the landlord whereby the landlord assists him with marketing his rice crop in return for a 2½% commission on the selling price and provides him with manure from his farm in return for a quantity of food crops from time to time. Ash has discovered that the Rice Marketing Board would assist him with marketing his rice free of any charge and that he can get fertilizers free from the Land Authority for the area.

Advise Ash as to:

- (i) Whether he can sue the landlord for damages for trespass and for an injunction to require him to construct a boundary fence;
- (ii) Whether he can rescind his agreement with the landlord for marketing his rice and providing fertilizer.

(b) Mineralco was granted a mining lease over 58 acres of land in St. Ann which included twenty acres owned by Agro. In 1979 in order to carry out their excavations Mineralco diverted a stream and Agro claims that as a result he is unable to irrigate his land and that the water is being polluted by chemicals which are harmful to his livestock.

Advise him as to his rights under the Mining Act.

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