

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
FIRST YEAR SUPPLEMENTARY EXAMINATION, 1994

LANDLORD AND TENANT
(Friday, August 12, 1994)

Instruction to Students:

- a) Time: 3 1/2 hours
- b) Answer FIVE questions only.
- 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 territory.
- d) It is unnecessary to transcribe the questions you attempt.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

Matland Limited, the owner of a four-apartment building not subject to rent restriction/control legislation, has agreed with four tenants to enter into the following lease agreements -

- (i) with Noel for a term of 25 years to begin at a time to be determined by the parties;
- (ii) with Aleem, the watchman of the apartment building, for the duration of his employment;
- (iii) with Melanie, a tenant from year to year, on condition that no other person is allowed to occupy the premises without the prior consent of Matland Limited;
- (iv) with Marnul "for the term of one year and so on from year to year until the said tenancy shall be determined which tenancy shall not be determined by Matland Limited, until they shall require the said premises for purposes of their own business undertaking."

Aleem, Melanie and Marnul took possession of their respective premises on June 30, 1993, the commencement date of their leases. Matland Limited has agreed to sell the apartment building to Cross Limited subject to Matland Limited obtaining vacant possession of the premises.

Matland Limited now seeks your advice as to the above leases.

- (a) Advise Matland Limited.
 - (b) Draft a notice to quit to Melanie.
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QUESTION 2

In 1990, Laurel entered into an oral yearly tenancy of an apartment in a small apartment complex owned by Herbert. The apartment is not subject to rent restriction/control legislation. The building was constructed in 1985, but with the passing of time and the failure to have timely repairs carried out on the building and the common areas, both have started to deteriorate.

Last week Laurel came to see you and told you the following -

- (a) that as a result of disrepair, moisture had penetrated the external walls of her apartment to the extent that fungus was growing on the inside walls and the paint had started to peel;
- (b) most of the light bulbs in the corridors of the building had blown so that the corridors are dimly lit at night;
- (c) a number of wall sockets in her apartment do not work;
- (d) the window frames to her apartment are no longer water resistant so that when it rains water penetrates into the flat through the frames and in addition there are a number of broken window panes as a result of recent heavy winds;
- (e) the roof over the balcony leaks so that when it rains the balcony is flooded and her furniture affected;
- (f) the guttering for the roof outside the apartment regularly becomes blocked with leaves and thus causes water to seep into the internal wall of the apartment.

Laurel has sought your advice with respect to the above.

Advise her.

QUESTION 3

Mickey had recently suffered a nervous breakdown and on his doctor's advice he was told that he should rent a house in the country in which he could in future rest and relax, especially on weekends. He approached Malcolm, the owner of several country homes, and explained what he wanted. Malcolm said he had just the house Mickey needed and showed Mickey a house adjoining a vacant parcel of land, also owned by Malcolm. Mickey liked the house and decided to take it. As a result, Mickey by agreement in writing dated May 31, 1992, became a tenant from year to year in respect of this house at a yearly rent of \$15,000 payable at the end of every year of the tenancy. The house was let furnished and Mickey agreed to keep it in repair.

In October 1993, Malcolm leased the vacant lot of land to Strike Squad Football Club. Stands were built and from early March this year football matches have been played on the Club premises during the day on Saturdays and Sundays and sometimes by floodlight on Saturday nights. Large crowds witness these matches and cause considerable noise.

Sometimes, stones, bottles and rubbish are thrown in Mickey's windows and one occasion his expensive stereo equipment was damaged.

Mickey wishes to vacate the premises without paying rent and sue Malcolm for damages.

Advise Mickey.

QUESTION 4

(a) On December 1, 1990, Porter Ltd. the landlords of commercial premises at 24 Main Street, demised to Jackie as a quarterly tenant, a shop on the second floor and a storeroom on the ground floor of the building.

On April 1, 1994, Porter Ltd. gave Jackie notice to quit in the following terms -

"Dear Jackie, we the undersigned, Porter Limited, give you notice to quit and deliver up possession of the shop at 24 Main Street in respect of which you are a tenant on the 31st July, 1994."

Advise Jackie.

(b) On Wednesday April 5, 1994, Wallace rented "Rosewood Cottage" from Lisa as a monthly tenant. He paid Lisa a month's rent of \$10,000 in advance and received the keys to the cottage. On Thursday, April 6, 1994, on his arrival at work he was told that he was being transferred on the following Monday to the company's head office in Florida. Later that day Wallace

visited Lisa and told her of his transfer. He also gave her one month's notice in writing of his termination of the tenancy. He offered her the keys to the cottage and requested the return of the rent. Lisa refused to accept the keys or to return the rent paid. In addition she told Wallace that in her view the notice was invalid.

Advise Wallace.

- (c) In a written lease between Jack and Jill, Clause 5 provided that -

"If the landlord requires possession of the demised premises at any time during the said term the landlord shall have the right to determine this lease by giving to the tenant not less than three (3) months' previous notice in writing expiring at any time so as to determine the same."

On April 22, 1994, Jack gave Jill notice to quit as follows -

"I hereby give you notice to quit the demised premises and in accordance with Clause 5 I require you to vacate the said premises within a period of three months from the date of service of this notice."

Advise Jill.

QUESTION 5

By a deed dated December 31, 1967, Veronica granted a lease of a farm of which she was the owner in fee simple to Paul for 30 years commencing January 1, 1968. The lease contained a covenant by the lessor that -

"if the lessee at any time during the term hereby granted shall give to the lessor six months' notice in writing that he desires to purchase the reversion in fee simple in the demised premises the lessor upon the expiration of such notice and on payment of the sum of \$60,000 and of all arrears of rent up to the expiration of such notice shall convey the demised premises to the lessee in fee simple free from encumbrances."

On August 7, 1979, Veronica sold and conveyed the farm to Owen in fee simple and on May 24, 1983, Paul assigned his lease to George.

George now wishes to purchase the fee simple in the farm.

- (a) Advise him.
- (b) What would your advice be if, instead of the above-mentioned covenant, the lease contained a covenant giving Paul an option to renew the lease for a further term of 30 years?

QUESTION 6

A lease of certain premises contains the following clause -

"PROVIDED ALWAYS and it is hereby expressly agreed that if the rent hereby reserved or any part thereof shall be unpaid after becoming payable or if any covenant on the tenant's part herein contained shall not be performed or observed it shall be lawful for the landlord at any time thereafter to re-enter upon the demised premises or any part thereof in the name of the whole and thereupon this demise shall absolutely determine but without prejudice to the right of action of the landlord in respect of any breach of the tenant's covenants herein contained."

Advise the landlord how he should proceed in order to forfeit the lease for breach of covenant of each of the following tenant's covenants -

- (i) to pay rent;
 - (ii) not to part with possession;
 - (iii) to insure the demised premises.
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QUESTION 7

On June 10, 1992, Lance granted to Tommy, a medical practitioner, a lease of premises comprising two buildings thereon, the main house and the other an annex, at a yearly rent of \$12,000

payable at the end of every year. Tommy occupies the main house as his residence and the annex as a doctor's office. In 1993 Lance was paid the rent only after he threatened to levy distress on Tommy's goods. The rent payable this year is still due and unpaid, in spite of several requests by Lance for payment. Lance has now consulted you and said he would like to levy distress on the following -

- (i) some medical text books in the annex;
- (ii) two beds and living room furniture in the "main house";
- (iii) some paintings in the "main house" kept in place on the walls of the building by screws;
- (iv) whatever cash is found on the demised premises;
- (v) a motor car, the property of Tommy, now parked in the yard of Tommy's friend, Hal. (Lance discovered that this vehicle was removed by Tommy from the garage of the "main house" and taken to Hal's residence so that Lance, should he decide to levy distress, would not find it on the demised premises).

Advise Lance.

QUESTION 8

- (a) Cindy is the tenant of a house constructed fifteen years ago. The house has never been assessed for the purposes of the Rent Restriction Act/Rent Control Act. Cindy pays rent at the rate

of \$500 per month which is the same amount paid by her friend for a larger house constructed in 1990. The written tenancy agreement contains the following terms -

"Provided that where any part of the rent shall be in arrears for 14 days whether lawfully demanded or not the lessor may re-enter upon the premises and immediately the term shall absolutely determine.

The landlord shall be entitled to give 7 days notice of termination for any breach of the tenant's covenants."

Cindy has been habitually late in the payment of the rent and on several occasions paid the rent in several instalments. Cindy returned to the flat after an absence of several weeks when her rent was already 21 days in arrears and found that the lock had been changed and her personal effects placed outside.

Advise Cindy.

- (b) Whitney is the landlord of controlled premises. The windows and drain on the premises were damaged by a storm and he is about to replace them. Although the galvanized zinc roof is still in good condition, he is contemplating using this opportunity to replace it with one of aluminium tiles. He would also like to renovate the kitchen. He wishes to know how these renovations will affect the rent he can recover.
- Advise Whitney.
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