

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE

FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 1996

LANDLORD AND TENANT

Tuesday, August 13, 1996

Instructions to Students

- (a) Time 3½ hours.
- (b) Answer **FIVE** 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 territory.
- (d) It is unnecessary to transcribe the questions you attempt.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

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QUESTION 1

In October 1995, Mandy advertised on the School notice board for a tenant for the vacant apartment at 6 Grove Wood Hill. John, having seen the advertisement, wrote to Mandy expressing an interest in the property. In November 1995, Mandy met John and took him to view the apartment. Mandy told him that he could move in in three months time. John agreed in writing with Mandy that they would execute a lease for \$3,000 per month for a period of five years.

After the expiration of the three months, John telephoned Mandy that he was ready to move into the property. Mandy replied, "sorry I've changed my mind about the letting, and anyway I've sold the house."

Advise John as to his rights.



QUESTION 2

Gail Jonwards, a law student, along with two other students, separately and on different dates entered agreements to occupy a three-bedroom house on a monthly basis. Gail's agreement stated inter-alia -

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"THIS AGREEMENT is made the 15th day of September 1989, BETWEEN BERT GUY of Boardwalk, Central P.O., Builder, (hereinafter referred to as "the Owner") of the ONE PART and GAIL JONWARDS of Queen's District, Queens, P.O., law student, (hereinafter referred to as "the licensee") of the OTHER PART whereby it is agreed as follows-

1. The Owner grants to the Licensee the right to use in common with others who have or may from time to time be granted the like right to the house known as "Villa Bella", Main Street, St. Michael, but without the right to exclusive possession of any part of the said house together with the fixtures, furniture, furnishings and effects now in the said house for nine months from the 1st day of October, 1995 and thereafter until determined by either party giving to the other one month's notice in writing to take effect at any time.

2. The Licensee agrees with the Owner as follows -

- (1) to pay the sum of \$800 per month for the right to share in the use of the said house, such sum to be paid by equal monthly instalments on the first day of each month, the first payment to be made on the 1st day of October, 1995.
- (2) Not to damage or cause any damage to the walls or floor of the said house or to the fixtures, furnishings, furniture and effects therein.
- (3) To share the use of the said house peaceably with and not to impede the use of the said house by such other persons to whom the owner has granted or shall from time to time grant licenses to use the said house in common with the Licensee and not to impede the use by such other persons of the gas, electricity, water and telephone services supplied to the house, provided that each shares the cost of such services.

- (4) If at any time there are less than two persons authorised by the Owner to use the said house in common with the Licensee, upon reasonable notice given by the Owner, to meet with any prospective licensee nominated by the Owner at the house, to provide an opportunity to such prospective Licensee to agree terms for sharing the costs of services in accordance with clause 2 (3).
- (5) Not to assign this agreement nor permit any other person except as licensed by the Owner to sleep or reside in or share occupation of the said house or any part of it at any time .

3. Provided as follows:-

- (1) If the said sum or any part thereof shall be in arrear or unpaid for at least fourteen days after the same shall have become due; or
- (2) In the event of any breach by the Licensee of the agreements herein contained then the Owner may by notice forthwith, determine this agreement but without prejudice to any other remedy of the Owner.

AS WITNESS the hands of the parties hereto the day and year first before written."

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Gail has been given one month's notice to quit the house to take effect on June 25, 1996. She now seeks your advice as to whether she is in occupation as a tenant or licensee.

What is your advice?

QUESTION 3

In 1995 Joanne leased premises to Jean for the purposes of operating a mini-zoo for one year, with an unrestricted option to renew if Jean desires.

Since December of 1995 Marge, Joanne's other tenant who occupies the adjoining premises, has complained regularly to Joanne about the noises and smells emanating from Jean's premises and has threatened suit for nuisance and breach of the covenant of quiet enjoyment.

Jean's lease will shortly be up for renewal.

Advise Joanne -

- (i) If she can avoid renewing the lease;
 - (ii) If the lease was renewed whether there was any way of avoiding further annoyance to Marge;
 - (iii) what are her present liabilities to Marge.
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QUESTION 4

Anchor, for the past eight years, has been the tenant of a dwelling house on Rapsey Street. The house was in very good condition when Anchor took possession. In 1992 a storm blew off some shingles from the roof. Anchor could not afford to replace them and the landlord Smiley who lived abroad was not aware of the damage.

In January 1993 after two days of rain, water seeped into the living room, but there was no further evidence of leakage because of a long drought that followed.

In December 1993, Smiley sold the house to Jack who inspected the premises prior to completion of the sale.

In April 1994, severe cracks began to appear in the front wall of the living room and Jack's friend who is a builder informed him that the cracks were as a result of the damp which had seeped into the wall and the drought that followed.

Anchor wishes to remain in possession of the dwelling house but is anxious to have the defects remedied and is of the view that it is the responsibility of Jack to do so.

Jack, however, is of the opinion that he is not responsible for such repairs. Had Anchor kept the house in a tenant like manner the damage would not have occurred.

Further he informs you that it was a term in the agreement between Anchor and Smiley that Anchor would insure the premises against fire, hurricane and flood.

Advise Jack.

QUESTION 5

In 1976 Michelle Dover granted Lionel a twenty year lease of a shop. The lease provides that Lionel should 'maintain and keep the demised premises in good and tenantable repair'. Also included in the lease is an option which confers on Lionel the right -

"after the expiration of nineteen years from the date of the demise herein, by notice, to renew the lease of the demised premises for a further term of twenty years as from the expiry date of this lease, save that any renewed lease shall not contain this option to renew, but in any event, this option being conditional on the observance by the tenant of the tenant's covenants in the lease."

The lease further provides that if Lionel desires to renew the lease he should serve on the landlord a notice of intention so to do.

In 1987, Michelle sold her reversionary interest to Bigby Property Limited.

In 1995, Lionel served on Bigby Property Limited a notice of intention to renew as required under the terms of his lease. His new landlords, however, have refused to renew the lease on the ground that Lionel, by failing to repair a cracked brick wall at the side of the shop, and the roof of the house which was damaged due to a windstorm, has breached the tenant's repairing covenant in the lease and is therefore barred from exercising the option. Lionel contends that he is not liable to do the repairs.

Advise Lionel.

QUESTION 6

Augustine Long is the owner of a house situated in the town of Greenville. On May 10, 1989 he leased the property (which is not subject to rent restriction/control legislation) to Hogarth, for a term of fifteen years commencing at the date of the lease at a yearly rent of \$24,000, payable quarterly in advance. The lease contains the usual forfeiture provision for non-payment of rent and breach of covenants. For the last three quarters Hogarth has paid no rent.

Long would like your advice as to the remedies which may be available to him in respect of the non-payment of rent and to the procedure he must adopt with respect to these remedies.

Advise Long.

QUESTION 7

In 1992, Mark rented a house with an annex to Lucille at a rent of \$3,000 per month for a period of ten years. Lucille lived in the house and rented the annex to Mary who used it to run a day care nursery. Six months ago Mark sold the house and annex to Jesse. While Jesse was inspecting the rental records for the house, he discovered that Lucille was three months in arrears of rent. Jesse immediately made a demand on Lucille for the amount owing whereupon Lucille clandestinely removed all her possessions in the house to her brother's house.

The following day Jesse discovered what had taken place and sent a bailiff to levy distress. The bailiff entered the house through an open window and took all the tenant's wearing apparel, tools of her trade and a bed. Realising that this was insufficient to satisfy the rent, he broke down the front door of the annex and distrained on some play pens belonging to Mary's clients, Mary's fridge and radio. The following day, the bailiff went to Lucille's brother's house and impounded a living room suite belonging to Lucille.

Advise Lucille and Mary.

QUESTION 8

Miss Frail, a retired school teacher, has been the monthly tenant of a small apartment for the last twenty years. The apartment is part of a converted house and is subject to rent restriction/control legislation

The apartment which is on the second floor consists of a bedroom, living/dining room and kitchen but she shares a bathroom with another tenant. In addition, she is permitted to enjoy the use of the garden although she has no legal right to do so. The house is located in a quiet residential area but within walking distance of a shopping plaza.

Last month, her landlord, Developers Limited, gave her notice to quit on the ground that the apartment was required for repairs to be carried out - the windows, the carpets and the kitchen cupboards to be replaced.

Developers Limited have offered her alternative accommodation on Central Road. This accommodation is also an apartment in a converted house, but has the added advantage of having its own bathroom and being located on the ground floor. The house, however, has no garden.

Central Road is a busy thoroughfare with a fair amount of commercial activity taking place. It is a noisy area where at all hours of the day and night vehicles and pedestrians are coming and going.

Miss Frail has come to see you for advice. She admits that the apartment on Central Road is more spacious, comfortable and accessible being on the ground floor. However, the location is quite unsuitable and she would only accept it if she had to. Further she is of the view that the proposed repairs are not essential.

What is your advice?
