

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
FIRST YEAR SUPPLEMENTAL EXAMINATIONS, 2000

LANDLORD AND TENANT
(Tuesday, August 8, 2000)

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 relevant territory**
- (d) It is unnecessary to transcribe the questions you attempt.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

(a) In June 1999, Lawson Lewis, the owner of a townhouse in Woodgreen Mews, demised it to Donny Davis on a quarterly tenancy. The rent was paid in advance. In September however, when Donny was paying the rent to Lawson he informed him that his girlfriend had moved into the townhouse as sole occupant and requested that Lawson prepare the receipt in her name and to continue to do so until further advised. Donny however, would continue to pay the rent. Lawson complied with this request.

Lawson now wishes to terminate the tenancy and has sought your advice as to whom the notice should be addressed.

Advise him.

(b) In 1990, Emily and Joseph Thomas moved out of their apartment which was protected by the Rent Restriction Act to live with and look after old Mrs. Roe. Mrs. Roe, who was the mother of Suzanne Roe, Emily's cousin, had earlier in 1990 conveyed the house by deed of gift to Suzanne who resides abroad. In the discussion of the arrangement with Suzanne the Thomases were given an assurance that in exchange for their caring for Mrs. Roe they would be allowed to stay in the house for the remainder of their lives paying no rent. Mrs. Roe died in December 1999 and Suzanne promptly served notice to quit on the Thomases claiming possession.

Advise them.

QUESTION 2

Draft a letter of advice to your client, Trixie Green, a prospective tenant, explaining the meaning and importance of the following covenants in a lease for a dwelling house:

- (i) that the tenant shall pay the rent in advance, without any deductions whatever and in the currency of the U.S.A.;
 - (ii) that the tenant shall deposit a sum equal to three months rent against possible breakage or repairs;
 - (iii) that the tenant shall insure the demised premises with an "all risk" insurance policy with Alpha Delta Insurance Co.;
 - (iv) that the tenant shall have the first refusal to lease the demised premises for a further period of five years.
-

QUESTION 3

Ludwig, the owner of an apartment complex, not subject to rent restriction legislation, granted Tabatha a five-year lease of a one-bedroom apartment. The lease did not contain a covenant for quiet enjoyment.

- (i) Ludwig has started to construct a swimming pool in an open space in front of Tabatha's apartment, for the use of all the tenants. Tabatha cannot

swim and she complains that the noise and the dust created by the construction are intolerable.

- (ii) Ludwig from time to time uses a duplicate key to enter and inspect in her absence Tabatha's apartment.
- (iii) Rats and cockroaches from a storeroom controlled by Ludwig and located near to Tabatha's apartment have been infesting her apartment.
- (iv) Tony, the tenant in the apartment above Tabatha's, is a drummer with a leading soca band and regularly practices in the evening causing a great deal of disturbance to Tabatha.

Advise Tabatha with respect to the above.

QUESTION 4

Tom has been a monthly tenant of residential premises (not subject to rent restriction legislation) in the city since January 1, 1990. The rent of \$5,000 per month was collected by an agent, Slack, in the absence of the owner, Rich, who resided abroad. The tenancy was an oral one.

Until December 1998, Tom paid the rent regularly but thereafter he paid it erratically, partly because he was unable to work regularly due to ill health and partly because the building was in need of plumbing and roof repairs and he had to spend on these. Nevertheless Slack accepted the rent whenever it was paid to him.

In February 2000, however, Rich returned from abroad. Since his return he has been unable to collect any rent nor to enter the premises to pick oranges and mangoes. Further, he observes from outside the premises that the trees are very diseased due to neglect.

Rich now seeks your advice.

Advise him.

QUESTION 5

Baxter occupies one hectare of land in the country under an oral agreement for a lease. He pays rent of \$1,000 quarterly and also supplies the landlord's green grocery store with callaloo and cabbage twice per week.

When Baxter went into occupation of the land in 1996 he cleared it of bush and boulders and then began his cultivation. Six weeks later, unknown to the landlord, he built a wooden house with a shop attached. The house is occupied as a residence by his family and his wife uses the shop as an outlet for her handicrafts and the produce from Baxter's cultivation.

On February 27, 2000, the landlord served Baxter with a notice to quit. The notice was dated January 1, 2000 and required that Baxter vacate the premises on April 1, 2000. The delay in service of the notice was due to the fact that Baxter and his family had been away staying with relatives.

Advise Baxter as to his legal rights in relation to the notice to quit, his cultivation and the building on the land.

QUESTION 6

On May 1, 1998, Small leased his house (which is exempt from rent restriction legislation) to Graham for 10 years at an annual rent of \$24,000 payable by equal monthly installments. The lease contained the following covenants by the tenants:

- (1) To pay the rent reserved at the time and in the manner aforesaid.
- (2) At his own expense to pave the driveway of the said premises with concrete.
- (3) To keep the demised premises at all times insured against loss or damage by fire.
- (4) Not to assign, underlet or part with possession of the demised premises without the consent of the landlord."

Further, the lease contained a proviso for re-entry on breach of any of the tenant's covenants.

On April 10, 1999, Graham sublet a room in the house to Wayne without obtaining Small's consent. The driveway has not been paved and the house is

uninsured although, on November 15, 1999, Small had requested Graham to pave the driveway and insure the house. Graham last paid rent on January 30, 2000.

Advise Small on whether he can forfeit the lease for:

- (i) breach of the covenant to pay rent;
- (ii) failure to pave the driveway;
- (iii) failure to insure;
- (iv) subletting;

and, if so, what steps he should take in each case to enforce the forfeiture.

QUESTION 7

Lenora owns a house and a shed standing on a small parcel of land. On June 1, 1998, she leased the entire premises to Mike, a motor mechanic and taxi driver. The lease was for ten years at a yearly rental of \$60,000 payable monthly. From the date of the lease, Mike has been living in the house and using the shed for his motor repair business. The last six months' rent being in arrears, Lenora's bailiff, two weeks ago, entered the premises and seized and carried away the following:-

From the shed: a taxi owned by one of Mike's customers, a motor cycle and a hydraulic jack both owned by Mike, and a car owned by Mike's wife, Trudy.

From the house: a refrigerator, a rented television set, two king-sized beds and the kitchen sink.

The bailiff also seized a taxi, owned by Mike, which was parked on the roadway adjoining the demised premises.

You are consulted by Mike who tells you that the goods seized were impounded at Lenora's premises. He also tells you that two days ago he saw Lenora riding the motorcycle in the city and yesterday he entered Lenora's premises and carried away the motorcycle.

Advise Mike.

QUESTION 8

Gordon Brown is the statutory tenant of a three-bedroom house at Queen's Meadows in which he had lived with his wife until they mutually separated two years ago. They had shared the house with Ken Black who occupied the spare bedroom.

Gordon thereafter rented a two-bedroom apartment in an apartment complex on the waterfront near to his customs brokerage firm. His letterhead carried his business address and that of the waterfront apartment.

In the meantime Gordon's son, Marc, who had been at university abroad, returned home with his fiancé and they both moved into the house at Queen's Meadows. They also shared the living expenses with Ken Black, who was still in occupation, as well as the telephone which was listed in his name. The third bedroom was reserved for Gordon. Some of his personal effects were kept there but he spent two or three nights each week in the waterfront apartment. On weekends, Gordon travelled into the country to stay with a very close lady friend.

Gordon's landlords of the Queen's Meadows house, Universe Ltd., having recently become more aware of the existing arrangements at the house have started proceedings against him for possession of the house on the ground that he is in breach of a statutory restriction against assigning, underletting and parting with possession and he is therefore no longer entitled to the protection due to statutory tenants.

Advise Gordon.
