

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 2007

LANDLORD AND TENANT

(MONDAY, AUGUST 6, 2007)

**Instructions to Students**

- (a) Time: **3 ½ 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.
- (e) Answers should be written in ink.

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**PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.**

## **QUESTION 1**

Jake Horne consults you and tells you that he is planning to take a job in Nigeria. He plans to relocate to that country for a period of five years. He has been offered a job there for three years with an option to renew for another two years.

He is married and has three sons. He is the sole owner of "High Hope" which is a valuable piece of real estate but it is subject to a mortgage. His wife Clarissa and three sons will be going to live in Canada during the period. At a family meeting, he, his wife Clarissa and their sons, Cedric, Ian and Gilbert discussed what should be done with "High Hope". Clarissa suggested that High Hope be sold; Cedric, who is planning to study law, suggested creating a licence in favour of some person. He said he was reading a law book and discovered that this was an easy thing to create and terminate. Gilbert and Ian were of the view that whatever their father decided was best.

Horne further tells you that in view of the great confidence that Ian and Gilbert have reposed in him he wants to make a wise decision although in his own mind, he has decided to lease the premises to an eligible person. Horne requires you to prepare a memorandum which he could take to the next family meeting. This memorandum should consider all the options and advise him on which course of action is the most beneficial.

Prepare the memorandum.

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## **QUESTION 2**

In January 2007, Allan entered into an agreement to purchase a town house in Ravens Court. However, he was unable to get a mortgage since he did not intend to reside on the premises. He therefore persuaded the tenant, Zara, who was in possession to vacate the premises pending completion of the sale. He promised to let her back into possession with a 10% reduction in rent as soon as the sale was complete.

Zara was quite happy to accept this arrangement since she was due to go on study leave abroad and was happy not to have to pay rent for the period she would not be in occupation. She left the country in February.

Allan was then let into possession pending completion but the vendor subsequently changed his mind, rescinded the contract and has now given notice that he intends to repossess the premises as from the end of this month (August).

Last week Zara returned to the country having completed her studies only to discover that she has nowhere to live.

She now seeks your advice as to her best course of action.

Advise Zara.

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## **QUESTION 3**

Pinky is a tenant in an apartment building owned by Justine. Justine signed a lease agreement with Pinky in November 2006 for a term of one year at a rent of

\$15,000 per month. Justine now wants the apartment back and does her best to convince Pinky to leave. Justine hopes to remodel the building for commercial purposes and all of the tenants have vacated the premises except Pinky.

Last week, Justine let one of the converted apartments downstairs to the owner of a woodwork shop. The workshop is open from 7:00 a.m. to 10:00 p.m. The noise and dust from the work being done there is driving Pinky crazy and the dust produced has affected her sinuses.

Yesterday, Pinky returned home to find that the electricity had been disconnected. When she telephoned Justine about it, Justine informed her that she had it disconnected because she wants her to vacate the apartment.

When she awoke this morning, Pinky noticed that her carpet was soaked and that some of her furniture had been damaged. On closer inspection, Pinky realized that rain has been seeping into her apartment as a result of demolition work done to the apartment beside hers. Apparently, the day before Justine had ordered her workmen to start remodeling the apartment immediately next to Pinky's.

Pinky has now sought your advice.

Advise her.

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#### **QUESTION 4**

Andrew owns a commercial 2-storey building (not subject to rent restriction legislation) which he leased to Peter for twenty years; the lease is to expire in

August 2008. Under the lease, Peter covenanted to substantially repair and keep in thorough repair and condition the demised premises and to deliver up the premises at the end or sooner determination of the term in such repair and condition. The lease also provided for the landlord to enter and inspect the premises on reasonable notice to the tenant.

Earlier this year, the town and country planning department served a notice on Peter as occupant of the building to remove and re-erect a wall at the side of the building which extended out to the public side walk. The wall was in a dangerous state and condition. The notice states that if Peter fails to comply by September 1, 2007, the department will close down the building.

Prior to this, Andrew repeatedly called on Peter to effect repairs to the said wall. Peter's argument is that rebuilding the wall does not fall under his covenant. A copy of the notice was served on Andrew as owner of the building.

Andrew does not want to risk having the building closed down. He therefore seeks your advice.

Advise Andrew as to whether Peter is in breach of his covenant to repair and, if so, the remedies available to Andrew.

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### **QUESTION 5**

Sean is the owner of business premises. On June 1, 2003, Roscoe leased Shop No. 10 on Sean's compound for one year. At the expiration of that lease, Roscoe continued in occupation of the shop paying a monthly rent of \$20,000.

Sean has other plans for the shop and wants Roscoe out. He persuaded his friend, who fancies himself a lawyer, to draft a notice to quit to be served on Roscoe. The notice is dated June 20, 2007 and advises Roscoe that he is to vacate the premises “on or before July 20, 2007”. When Sean went to Roscoe’s shop on June 20, 2007, Roscoe was not there. He left the notice with Roscoe’s shop manager.

On that same compound, Frances occupies Shop No. 3 on a yearly tenancy arrangement which commenced on July 1, 2000. Frances recently married her German sweetheart and intends to move to Germany shortly. She returned from Germany recently and expects that her immigration status will be regularized later this year. On July 1, 2007, she purported to serve a notice to quit on Sean dated the same day and reads:

*“Dear Sean,*

*It has been a pleasure being your tenant. However, due to personal circumstances, please take notice that I intend to quit your premises (Shop No. 3) at the end of August this year (2007) or perhaps even a month earlier – depending on when my immigration papers come through. Thanks for your kind understanding.*

*Frances”*

On the recommendation of a friend, Sean comes to see you for advice. Roscoe has contended that this is not a proper notice and therefore he has no intention of moving. Frances has started selling off the fixtures from her shop.

Advise Sean as to the validity of the respective notices.

## **QUESTION 6**

On June 1, 2002, Marsha leased a dwelling house to Geoffrey for a period of five years at a monthly rental of \$8,000. The lease provided, *inter alia*, that the tenant was to paint the interior of the house every year and was to pay all rates and taxes. The lease also contained the following provisions –

“5.1. If the tenant desires to renew this lease for a further term of 5 years and on or before December 1, 2006 gives the landlord notice in writing of this desire and pays the rent and duly performs all the covenants in this lease, then this lease shall be renewed in all respects save this option and the option in Clause 5.2.

5.2. Upon paying to the landlord \$30,000 on the execution of this lease, the tenant shall have the option to purchase the freehold at any time before the expiration of the term at a price to be agreed.”

On June 1, 2003, Geoffrey assigned the lease to Frankie, with Marsha’s consent. Since assuming the lease, Frankie is always on time with his rent but has never painted the interior of the house. On January 1, 2007, Frankie gave written notice to Marsha purporting to exercise the option to renew the lease. He explained that the notice was late because he was away on holiday. Marsha has refused to renew the lease.

Yesterday, Marsha received a letter from Frankie purporting to exercise the option to purchase the property. Geoffrey had paid the required \$30,000 at the execution of the lease.

Marsha comes to see you for advice. She has no intention of keeping Frankie as a tenant much less to sell him the house.

Advise Marsha.

## **QUESTION 7**

Tomlinson has been a monthly tenant of residential premises (not subject to rent restriction legislation) in the city since January 1, 2000. The rent of \$20,000 per month was collected by an agent, Slack, in the absence of the owner, Rich.

The rent was paid regularly until December 2005. After this, however, the rent was paid erratically since Tomlinson claimed that he was unable to work due to ill-health. Slack nevertheless accepted the rent whenever it was offered.

In March this year (2007) Rich returned from abroad and has been getting increasingly irate because he is unable to collect his rent on time. He is also unable to get oranges and mangoes from the premises because the trees are diseased due to neglect.

On July 1, 2007, he therefore gave Tomlinson notice to quit for non-payment of rent for May and June. Tomlinson, however, claims that he has had to expend a lot of money on urgent repairs to the plumbing and the roof and that he has set off those sums against the rent as the tenancy agreement required that Rich carry out these repairs. Tomlinson also claims that Rich has become a nuisance to his family as a result of his regular visits to pick fruits.

Tomlinson has not yet vacated the premises.

Rich wishes to bring an action for arrears of rent and repossession.

Advise him.

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## **QUESTION 8**

- (a) Xavier occupies a dwelling house in College Crescent under a monthly tenancy at a standard/controlled rent which was fixed at \$10,000 per month. In August 2005 the zinc roof was partially blown off by hurricane winds and a shed and garage became unsafe because of large cracks in the outer walls which were caused by subsidence of the foundations. The landlord replaced the zinc roof with a tile roof in December 2005 but refused to repair the shed and garage because he said he could not afford it.

Xavier subsequently applied to the relevant body to have the rent re-assessed. This was done, however the rent was increased by 10% to take into account “improvements” made by the landlord.

Xavier would like to appeal this assessment and has sought your advice.

Advise him.

- (b) Marva is the tenant of a luxury two bedroom apartment in a large block of apartments in New Town. She pays a monthly rent of \$50,000. In addition she pays a maintenance fee of \$10,000 per month which includes the cost of maintaining all the common areas and employing security guards. The landlord apportions the expenses incurred for water and electricity amongst the tenants of all the apartments.

Marva has recently had to take a cut in salary as her employer’s business has been suffering losses. She therefore sought to have the rent for the apartment determined. The Board/Committee decided that the \$50,000 per month was reasonable using the market value formulation and refused to take into account the additional charges.

Advise Marva whether she ought to appeal against this assessment. Give reasons.

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