

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 2013

LANDLORD AND TENANT
(THURSDAY, AUGUST 8, 2013)

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 black or dark blue ink.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

Your client, Emerald Green, consults you. She tells you that she has been a quarterly tenant for the past nineteen years at “Ruby Cottage”, Bayfarm. In November 2012, she received notice from her landlord that the house was up for sale, that he was increasing the rent by 10% as of January 2013 and that he would be making all outstanding repairs. The premises are not subject to rent restriction legislation.

Emerald tells you that she began paying the increased rent in January 2013, but no repairs have been done. In February 2013 she received a notice to quit the premises served on behalf of the purchasers, and which stated that the notice was being given with the consent of her landlord.

When she contacted her landlord, however, he denied giving his consent to the notice as he said the premises had not yet been sold. In fact he offered to sell her the premises, but they could not agree on a price.

Emerald further tells you, that in May this year (2013), she received a new notice to quit from persons who said they were the new owners. The notice stated that she was to vacate the premises in two months time – by July 2013 – and that in the interim she was to send the rent to them by a banker’s cheque.

Last week, however, before the rent was due to be paid, her landlord telephoned her, instructing her to pay the rent to him on the due date. In addition, her efforts to find somewhere else have so far proved futile.

Emerald now seeks your advice –

- (i) as to the validity of the notice to quit of May 2013; and
 - (ii) as to whom she should pay the rent.
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QUESTION 2

Laura entered into verbal negotiation with Titus for the grant of a lease of her property for a period of five years certain, with an option to renew for a further term. Titus entered into possession of the property on September 1, 2010, and thereafter paid rent on a monthly basis. Three months later Laura wrote to Titus confirming the terms of their oral agreement and Titus signed the letter acknowledging the terms set out in the letter. This letter reads as follows:

“Dear Sir,

I write this letter to you as the owner of No. 4 Buttercup Park the subject of your tenancy.

I am prepared to let you the said premises with effect from September 1, 2010, on the following terms:

- a) The rental will be \$15,000 per month payable on the first day of each month in advance. The rental paid for Sept. – Nov. is hereby acknowledged.
- b) It shall be your obligation to pay for electricity, water and telephone services.
- c) You will keep the premises in good repair and condition, fair wear and tear excepted.
- d) My obligation will be to pay all rates and taxes, to insure the premises and to keep the premises in structural repair.
- e) With my consent you may allow any other person to occupy the house, you however, remaining responsible to me for the payment and the discharge of the other obligations.
- f) The term of the letting shall expire on Sept. 30, 2015.

If you accept the terms set out herein, could you kindly countersign the duplicate of this letter and return it to me.”

In June 2013, Titus served Laura one month’s notice to quit. The notice has now expired and Titus has moved out of the premises. Laura has sought your advice in this matter.

Advise Laura.

QUESTION 3

For five years, Richard has been the monthly tenant of a studio apartment in a complex owned by Jerry. Jerry was also the owner of an adjoining complex. Recently, Jerry joined the two complexes together and converted them into a hotel. The use of the building as a hotel has resulted in the general public coming and going as participants at various social activities, including the regular use of the swimming pool and the disco. The disco, however, is not adequately soundproofed.

As a result, Richard has complained frequently to Jerry about the noise from the disco and disturbance caused by the social events which occur at nights in the hotel.

Richard (who is still a monthly tenant) recently came to see you on the brink of a nervous breakdown. He wishes you to advise him in this matter.

Advise Richard.

QUESTION 4

Bosie, for the past five years, has been the tenant of a dwelling house on Curep Street. The house is not subject to rent restriction legislation. It was in very good condition when Bosie took possession. In 2010, however, a storm blew off some tiles from the roof. Bosie could not afford to replace them and the landlord, Deportee, who lived in Toronto, was not aware of the damage.

In January 2011, after two days of heavy rain, water seeped into a bedroom and the living room, but there was no further evidence of leakage because of a long drought that followed.

In December 2011, Deportee sold the house to Whyte who inspected the premises prior to completion of the sale.

In April 2012, severe cracks began to appear in the front wall of the living room and Whyte's friend who is an engineer, informed him that the cracks were as a result of the damp which had seeped into the wall from the roof, compounded by the drought that followed.

Bosie 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 Whyte to do so.

Whyte, however, is of the opinion that he is not responsible for such repairs and, had Bosie kept the house in a tenant-like manner, the damage would not have occurred.

Further, Whyte informs you that it was a term of the agreement between Bosie and Deportee that Bosie would insure the premises against fire, hurricane and flood.

Advise Whyte.

QUESTION 5

Barron 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; and
- (iii) that the tenant will maintain the premises.

Advise Barron 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 \$5,000 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) Barron operates the premises as a supermarket, but one section of the supermarket is devoted solely to bread, biscuits, cakes and patties, which are freshly prepared everyday

by Barron's wife. 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 customer, was injured when he tripped on a loose tile in the floor of the supermarket and is claiming damages against Barron for his injuries.

QUESTION 6

In April 2008, Lee let Maypen, on which were situate two office buildings, A and B, to Trudy for ten years at a rent of \$24,000 per year. The lease included the following covenants –

“(1) The tenant shall not assign, sublet or part with possession of the demised premises without the consent of the landlord.

(2) The tenant shall keep the demised premises in repair.”

In January 2012, Trudy, without obtaining Lee's consent, sublet Building A to Sam who operated a computer training school from it.

In February 2012, Lee conveyed Maypen to Ramon.

Since 2008, Building B has been in a state of disrepair and has not been occupied. In June 2013, Ramon peaceably re-entered Building B and changed the locks. Trudy does not owe any rent to Lee.

Both Trudy and Sam have sought your advice with respect to the re-entry and whether they are entitled to any compensation.

Advise Trudy and Sam.

QUESTION 7

By a lease dated May 1, 2003, Nigel let a house to Bobby for 12 years at a yearly rent of \$300,000 payable by equal monthly instalments in advance. Further, Nigel is the landlord and Francis the tenant of a warehouse under a ten-year lease granted on January 1, 2004. The latter lease contains a covenant against assignment by the tenant without the landlord's consent. Bobby's rent is now three months in arrears and Francis, on July 6, 2012, without the consent of Nigel, assigned the residue of his term to Joseph.

Nigel wishes to know whether –

- (i) there is any legal remedy, other than proceedings in court, whereby he can speedily recover the arrears of rent from Bobby and, if there is, what procedure should be followed; and
- (ii) he can terminate either or both leases and if he can, how he should proceed.

Advise Nigel. (The possibility of protection by rent restriction legislation should be ignored).

QUESTION 8

In June 2011, Developers Ltd. (Developers) acquired a substantial property at Collins Green, consisting of an old house, 5 acres of land, and a variety of outbuildings. The property is subject to rent restriction legislation. Developers have converted the ground floor of the house to provide 3 office units, one to be used by them, the other two to be let to firms of architects and insurers respectively.

The upper floor has been converted to provide 5 studio apartments, one of which is to be used by Developers to accommodate the caretaker of the premises and one other is retained by the architects to accommodate occasional visiting clients. Three of the 5 acres have been let on a 40-year building lease to Techomes Ltd. A small detached cottage on the grounds, subject to a tenancy at the time of sale, has been substantially improved and extended by arrangement with the tenants, who have been paying a standard rent of \$15,000 per month.

Developers consult you about their right or duty to have standard rents fixed on all these units and about any principals likely to be applied. They are also concerned about making a fair return on their capital.

Advise Developers.

END OF PAPER