

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 2014

LANDLORD AND TENANT

(AUGUST 7, 2014)

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.
- (e) Answers should be written in black or dark blue ink.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

Through a series of correspondence, Denton agreed to lease Kanye his 2-bedroom apartment for 5 years commencing on January 1, 2010, at an annual rent of \$12,000 payable by equal monthly instalments. They also agreed that Kanye would paint the inside of the apartment once per year and that Kanye would have the option to renew the lease if he indicated his desire to Denton, in writing, at any time before the expiration of the 5 years.

Kanye entered into possession on January 1, 2010 and has been paying his rent, as agreed, on time. He has also painted the inside of the apartment every Christmas.

Last month Kanye gave a letter to Denton indicating that he wished to renew the lease for another 5 years. Denton's response was "What lease?" The lease had not been perfected.

On May 1, 2014, Denton served one month's notice to quit on Kanye, referring in the notice to Kanye's "monthly tenancy".

Kanye comes to seek your advice. He wants to have the lease executed and he wants to remain in the apartment for another term of 5 years.

Advise Kanye.

QUESTION 2

On July 1, 2013, Hardy employed Drew as a horseman to help with the horses in his stable. Drew's job was to exercise and feed the horses every morning and evening and to groom them in the afternoon. Drew had recently arrived from the country so Hardy allowed Drew to occupy a small cottage, Cottage No. 1, on Hardy's property adjacent to the stables. Hardy informed

Drew that he could occupy it because it would facilitate the better performance of his job if he lived close by. Hardy and Drew agreed that a token sum of \$1,000 per month would be deducted from Drew's salary for this purpose.

On August 28, 2013, Hardy's best friend asked him to put up a student in the unoccupied cottage, Cottage No. 2, for a semester. Hardy agreed and the student, Dunn Care, entered into occupation on September 1, 2013. Hardy's wife provided meals for Dunn Care and at the end of each week would let herself into the cottage, with her own keys, to clean it and to supply fresh linen. Dunn Care paid Hardy \$4,000 per month for this service.

Last week, Hardy learnt that Drew had accepted a job as a jockey with a rival stable. On the same day, he also learnt that Dunn Care had been in trouble with the police for driving a friend's car without a licence. He wants them both off his property. He gave them each two days' notice to vacate the respective cottages.

Drew and Dunn seek your advice. Advise them.

QUESTION 3

Prepare a memorandum to an attorney-at-law who has consulted you on behalf of a prospective tenant, and who wishes to be advised on the meaning and import of the following covenants in a draft lease –

- (i) *"That subject to the terms and conditions hereof and the Lessee paying the rents hereby reserved and other sums payable hereunder and observing and performing the several covenants, conditions and stipulations herein on its part contained shall*

peaceably hold and enjoy the Leased Premises during the Term without any interruption by the Lessor or any person rightfully claiming through, under or in trust for it.”

(ii) *“That the tenant shall insure the premises for the benefit of the landlord.”*

(iii) *“That the tenant shall use the premises as professional offices only.”*

(iv) *“That the tenant shall have an option to renew the tenancy at the end of the term thereof.”*

QUESTION 4

By a lease dated May 1, 2010, Michael became the tenant of a two-storey building owned by Stuart. The lease was for 7 years at an annual rent of \$24,000, payable by equal monthly instalments. From the date of the lease Michael had been living on the upper floor with his daughter, Gina, an accountant. Michael is a tailor and he carries on his business on the ground floor. He has not paid rent for the past 8 months.

Two days ago, ScrewFace, a bailiff acting on Stuart’s behalf, entered the ground floor of the building through an unlocked door. He announced that he was there because Michael had not been paying his rent. He proceeded to seize an industrial-sized sewing machine which had been bolted to the floor, a button-maker, four bolts of fabric, some pants on display for sale and two suits belonging to Ashton that were being altered by Michael.

ScrewFace then proceeded upstairs where he seized a refrigerator, stove, bed, computer and painting. The computer and painting belong to Gina. On his way out, ScrewFace seized Michael’s station wagon. He informed Michael that he was securing everything at the Government warehouse.

Michael was surprised to see his nephew drive up in his station wagon the following evening. His nephew said that he had seen it parked outside a house of ill repute.

Michael seeks your advice as to the validity of the distress and whether he can recover the property seized.

Advise Michael.

QUESTION 5

Sean is the owner of business premises, not covered by rent restriction legislation. On June 1, 2010, 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 the usual 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, 2014 and advises Roscoe that he is to vacate the premises "on or before July 20, 2014". When Sean went to Roscoe's shop on June 20, 2014, 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, 2007. Frances recently married her German sweetheart and intends to

move to Germany shortly. She expects that her immigration status will be regularized later this year. On June 1, 2014, she purported to serve a notice to quit on Sean dated the same day which 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 (2014) 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 proper notice and therefore he has no intention of moving. Two days ago, Sean terminated the water supply and electricity to Roscoe’s shop.

Advise Sean as to the validity of the respective notices and his actions in relation to Roscoe’s shop.

QUESTION 6

Karen has been the tenant of commercial premises on High Street since 2010. The premises are not subject to rent restriction legislation. She uses the premises for the manufacture of straw

items. The rent of \$10,000 is payable on the first day of each month, in advance, and Karen is also responsible for payment of all utility bills. Karen had not entered into a written lease with the landlord, Paradise Development Company, until 2012.

On December 22, 2013, Paradise Development Company served Karen with a notice to quit for non-payment of rent which, she agrees, has been in arrears for three months. She claims, however, that the premises have been in a state of disrepair for years, and that, during recent heavy rains, water seeped in through the defective roof, causing damage to the inside walls and flooring and to the straw which she stored on the premises for her business. As a result she decided to withhold the rent. She wishes also to claim compensation from Paradise Development Company which has denied liability.

Paradise Development Company states that it is an express term of the lease that the tenant will maintain the premises in a tenant-like manner, fair wear and tear excepted. Karen is of the view, however, that the landlord is responsible for all repairs although this is not expressly stated in the lease.

Directors of the company have, from time to time, visited the premises in order to purchase straw items and are therefore aware of the disrepair.

Karen who is now being sued for arrears of rent and damages for failure to repair seeks your advice.

Advise Karen.

QUESTION 7

Keyes Company Limited wishes to enter into a residential lease for 15 years of premises owned by Jaystone Company Limited, at a yearly rent of \$100,000 payable in equal monthly instalments. General Bank Limited has a mortgage over this property.

Prepare a memorandum in preparation for drafting the lease.

The memorandum should outline the following items:

- (i) the essential terms; and
- (ii) the usual covenants

and explain briefly the relevant considerations in relation to each item in the context of this lease.

QUESTION 8

By an agreement in writing, but not under seal, Thomas leased certain premises from Larry for ten years commencing on January 1, 2013 at a rental of \$15,000 payable per quarter. Thomas then formed a company and, being desirous of assigning the lease to the company, sought and obtained the written consent of Larry to the assignment. Larry's consent was given on condition that the assignment should not affect the stipulations in the original agreement.

On January 1, 2014, the company went into possession but without any written assignment of the lease. Shortly after, the company defaulted in payment of rent.

Larry now sues Thomas for the rent and Thomas claims that the company, only, is liable.

Advise Thomas.

END OF PAPER