

COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 2015

LANDLORD AND TENANT

(AUGUST 7, 2015)

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.

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PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

## **QUESTION 1**

For the past eight years, Jomo has been the tenant of a dwelling house on Kettle Street. The house was in very good condition when Jomo took possession. However, in 2012 a storm blew off some of the shingles from the roof, and Jomo could not afford to replace them. The landlord, Sweetie, who lives abroad, was not aware of the damage.

In January 2014, 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 2014, Sweetie sold the house to Pete who inspected the premises prior to completion of the sale.

In April 2015, severe cracks began to appear in the front wall of the living room. Pete's friend, who is an engineer, informed him that the cracks were caused by damp, which seeped into the wall, and the drought that followed.

Jomo wishes to remain in possession of the dwelling house but is anxious to have the defects remedied. He is of the view that it is Pete's responsibility to do so.

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

Pete further informs you that it was a term in the agreement between Jomo and Sweetie that Jomo would insure the premises against fire, hurricane and flood.

Advise Pete.

## **QUESTION 2**

On June 10, 2012, Rasheeda granted to Millicent, a medical practitioner, a lease of premises comprising two buildings - a main house and a cottage. The agreement was for the payment of a yearly rent of \$480,000, payable at the end of every year. Millicent occupies the main house as her residence and the cottage as a doctor's office.

In August 2014, Millicent paid the rent, but only after Rasheeda threatened to break down the door and seize her surgical and other equipment. The rent payable this year is still due and unpaid, in spite of several requests by Rasheeda for payment.

Rasheeda has now consulted you because she would like to levy distress on the following and needs your advice:

- (i) some medical text books in the cottage;
- (ii) two beds and living room furniture in the main house;
- (iii) some paintings in the main house kept in place on the walls by screws;
- (iv) whatever cash is found on the demised premises; and
- (v) a motor car, owned by Millicent, now parked in the yard of Millicent's best friend, Hendy. Rasheeda tells you that she discovered that the vehicle was removed by Millicent from the garage of the main house and taken to Hendy's residence. This was to prevent Rasheeda finding it on the demised premises, if she decided to levy distress.

Advise Rasheeda.

### **QUESTION 3**

Busy is the owner of property known as “Sky High”, which is comprised of a main house and a cottage. The property is not subject to rent restriction legislation.

- (i) In 2005, Ray was employed by Busy as his driver and the estate supervisor for “Sky High”. Ray was paid a weekly salary and, as part of his remuneration for his services, he was permitted to use a flat attached to the main house at “Sky High” as his residence. Busy’s cousin has recently come to live at “Sky High”. Busy no longer wishes to continue the arrangement with Ray, as his cousin is very helpful, and has been driving him around and assisting with the management of the estate.
  
- (ii) Busy entered into an oral agreement with Pinky for her occupation of the premises from January 2013. Pinky occupied the cottage for two years but thereafter ran into financial difficulties. To resolve her problem she (Pinky) verbally agreed to let her friend, Queenie, live in the cottage for a few months and for Queenie to pay the rent to Busy. Busy verbally consented to Queenie taking Pinky’s place for a few months. However, six months have now passed and Pinky has not returned. Busy wishes to put an end to the arrangement because he does not like Queenie’s boyfriend who frequents the cottage. Busy therefore visited the cottage recently and placed a padlock on the front door.

Busy has sought your advice with respect to the matters at (i) and (ii) above.

Advise Busy.

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#### **QUESTION 4**

Darcy, the owner of a block of apartments, not subject to rent restriction legislation, granted Tina a three-year lease of a one-bedroom apartment. The lease does not contain a covenant for quiet enjoyment.

- (i) Darcy has started to construct a swimming pool in an open space in front of Tina's apartment for the use of all the tenants. Tina cannot swim and she complains that the noise and dust created by the construction are intolerable.
- (ii) Darcy regularly uses a duplicate key to enter and inspect Tina's apartment in Tina's absence.
- (iii) Jeffrey Pounder, who is a member of an internationally acclaimed jazz band, is the tenant of the apartment immediately above Tina's. Tina complains that Pounder's beating of the drums disturbs her and that water from a defective bath in Pounder's apartment recently began to seep into her apartment. This has caused damage to her hardwood floor.
- (iv) Cockroaches from a garbage holding area, located in a common area of the apartment complex close to Tina's apartment, have been invading her apartment.

Advise Tina.

## **QUESTION 5**

Danae, an aspiring attorney-at-law, agreed to lease her two-bedroom apartment to Kareem for five years, commencing January 1, 2011. They agreed an annual rent of \$1,200,000, payable by equal monthly instalments. They also agreed that Kareem would paint the inside of the apartment once per year and would have the option to renew the lease if he indicated this desire to Danae, in writing, at any time before the expiration of the five years.

Kareem entered into possession on January 1, 2011 and has been paying his rent, as agreed. The rent is also paid on time. Kareem has painted the inside of the apartment every Christmas.

In May (this year), Kareem gave Danae a letter indicating that he wished to renew the lease for another five years. Danae's response was "What lease? All we have done is to text and telephone each other. I have never given you any document to sign."

On July 1, Danae served a one-month's notice to quit on Kareem, referring in the notice to Kareem's "monthly tenancy".

Kareem now seeks your advice. He would like to stay on for another five-year term and also wishes to ensure that he executes a lease.

Advise him.

## **QUESTION 6**

Barry has a five-year lease of commercial premises in May Down. The lease provides, *inter alia*:

- (i) that the tenant will not use the premises as a pastry shop;
- (ii) that the tenant will pay all rates and taxes on the premises as they fall due; and
- (iii) that the tenant will maintain the premises.

Advise Barry as to his liabilities under the lease in the following circumstances:

- (a) The Town Council in pursuance of its obligations under public health legislation is laying a sewer pipe along the roadway and has imposed a rate of \$10,000 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) Barry operates the premises as a supermarket, but one section of the supermarket is devoted solely to breads, biscuits, cakes and patties, which are prepared daily by Barry'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) Fabian, a customer, was injured when he tripped on a loose tile in the floor of the supermarket and is claiming damages against Barry for his injuries.

## **QUESTION 7**

By agreement dated February 3, 2014, Sheldon leased a riverside property to Alicia for a term of 15 years, for the purpose of establishing a wellness centre, including a guest house and spa. In the first year of operation, Alicia has managed to build up a loyal clientele and a good reputation.

Last month, Alicia noticed that the adjacent property, also owned by Sheldon, was being cleared. Heavy-duty equipment passes day and night across the entrance to the spa, leaving sand, gravel and dust strewn along the way up to the guest house and spa. At this point, only clients with SUVs could access Alicia's property. In addition, the noise and dust generally make it impossible to conduct business, and her business is steadily declining.

In walking around the property a few days ago, Alicia noticed that there was some land slippage on the side adjacent to the property being cleared. Alicia immediately telephoned Sheldon to tell him of her concerns, whereupon, Sheldon told her that he had leased the property to a big overseas company for the purpose of carrying out mining operations.

Alicia is very upset and shocked, and comes to seek your advice. She wants to know what actions she can take against Sheldon. She also wants the operation next door to cease.

Advise Alicia.

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## **QUESTION 8**

Prepare a memorandum to your supervising attorney-at-law who has been consulted by a prospective tenant seeking advice on the meaning and import of the following covenants in a draft lease:

- (i) that the tenant shall insure the premises for the benefit of the landlord;
- (ii) that the tenant shall not assign, sublet or part with possession of the demised premises or grant any licence thereto without the prior consent in writing of the landlord;
- (iii) that the tenant shall use the premises as professional offices only; and
- (iv) that the tenant shall have an option to purchase the premises at the end of the term.

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**END OF PAPER**