

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 2010

LANDLORD AND TENANT

(THURSDAY, AUGUST 19, 2010)

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.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

Dr. Smart, a lecturer in History at the College of Higher Education, opts to find his own accommodation which is at Seaview Heights and accepts a housing allowance of 30% of his salary each month rather than to occupy accommodation provided on the College campus which would cost him 10% of his salary each month.

Since September 2008, having found his own accommodation he has let a room and bathroom along with the right to use the kitchen and laundry to a student, Sylvia, who pays him \$20,000 per month which includes the cost of electricity, water and telephone services. Sylvia also undertakes to baby-sit for Smart's two-year old son when himself and his wife go out in the evenings and on each occasion that he does so, she is given a \$500 rebate on the rent for the month.

To comply with the usual formalities required by the College, the property at Seaview Heights is let by the owner, Orville, to the College on an annual basis from August 30 of each year and the College then sublets to Smart on a monthly basis.

In May of this year (2010), Smart terminated his contract with the College and left the country. Sylvia however, remained in occupation of her facilities.

Last month the College wrote a letter to her threatening to evict her and claiming that she is a mere trespasser and that the premises are required for occupation by another lecturer on September 1.

Sylvia is very anxious to remain in occupation since she has to take her final examination in August and has neither the time nor the financial resources to find other accommodation at this time.

Advise Sylvia.

QUESTION 2

Mercediaz, the owner of an attractive property in Bay View granted Developers Limited a fifteen year building lease of a one-acre plot of land which comprised half of the property. Permission to sub-divide was obtained prior to the completion of the contract. Both parties proceeded on the understanding that Developers Limited would construct a block of four two-bedroom apartments on the site.

It was agreed that for the first two years of the lease the rental would be \$10,000 per annum payable half-yearly and thereafter the rental would increase to \$100,000 per annum. The agreement also gave Developers Limited an option to purchase the freehold any time after the tenth year of the lease.

However, due to various factors – the recession, lack of capital, shortage of material and labour problems – Developers Limited have been unable to begin construction two years after the commencement of the lease. They claim that the contract is therefore frustrated. Mercediaz however, is of the view that the agreement is still valid and that he is now entitled to an increased rent of \$100,000 per annum.

Advise Mercediaz.

QUESTION 3

- (a) Tara entered into a five-year lease with Leyton the freehold owner of residential premises in Highgate. Prior to signing the lease, Tara made it clear to Leyton that she would be giving piano lessons on the premises in the evenings and on weekends.

Three months after she entered into possession, she often found it impossible to conduct piano lessons. The occupants of the adjoining premises, who were also Leyton's tenants used the premises as a wedding centre for the holding of wedding ceremonies and receptions. Tara informed Leyton that if the noise continued she would have no option but to vacate. Last month she left the premises.

Advise Leyton.

- (b) Larry is the landlord of a block of four apartments in Fox Hill. The tenants of the two apartments upstairs are members of a commune and often entertain many friends in their apartments. The tenants of the ground floor apartments, Toni and Taj, complain that the activities of their neighbours are an embarrassment to them and that the heavy smoke that often comes downstairs from upstairs is upsetting. They are of the view that these acts constitute a breach of their covenant for quiet enjoyment with Larry.

Advise Toni and Taj.

- (c) Minnie is the yearly tenant of a studio apartment which is part of an apartment complex. She has always paid the rent on time. Two days ago, she came home from work to find no water in the apartment. At first, she assumed that there

was a general water lock-off but subsequently discovered that the executive committee of the corporation had locked off the water to her apartment as her landlord is in arrears with payment of maintenance.

Advise Minnie.

QUESTION 4

Lincon is the freehold owner of a duplex apartment. He occupies Apartment No. 1. On August 15, 2008, he let Apartment no. 2 to Joy for three years. The lease included the following covenants –

- “(1) The tenant shall keep the interior of the demised premises in good and tenantable repair, fair wear and tear excepted.*

- (2) The landlord shall keep, maintain, repair and keep in good repair the structure and exterior of the demised premises, including drains, gutters and external pipes, fair wear and tear excepted.”*

Since hurricane Gustav in 2008 some of the gutters, along the roof above Apartment No. 2 which blew off have not been replaced. As a result of this, water drips through a window and into the living room of Apartment No. 2. Further the window has expanded and now needs to be replaced.

Joy has also observed that under the window a portion of the wooden floor, which was repaired at the commencement of the tenancy, is again in a state of disrepair due to the dripping water. Last week Joy slipped on the floor, fell and fractured her arm.

Joy wishes to sue Lincon for breach of his repairing covenant.

Advise Joy as to her rights and liabilities.

QUESTION 5

By a lease dated January 10, 1965, Realtors Ltd. demised 55 Brook Mews to Arthur Cox for a term of 20 years upon their standard terms of lease which included:

- “(a) A covenant by the tenant to keep the interior and exterior of the demised premises in good and tenantable repair.*
- (b) A covenant by the tenant to permit the landlord to inspect at any time, and a proviso whereby if after such inspection the landlord gave notice of any disrepair and the tenant did not remedy the same within three months, the landlord might enter and carry out all necessary work and recover the cost thereof from the tenant.*
- (c) A proviso for re-entry for breach of covenant or arrears of rent.”*

On June 20, 2010, Realtors Ltd. surveyed the property and found a number of dilapidations both internally and externally.

Advise Arthur Cox who consults you about the threat of forfeiture of his lease and the possibility of relief against this forfeiture.

QUESTION 6

On June 10, 2005, Malik granted a lease of a dwelling house to Sion for five years. The lease contained *inter alia* the following clauses:

- (i) that the landlord may have the right during the term to use the lawn tennis courts twice weekly;
- (ii) that the landlord shall keep the demised premises in repair during the term of the lease;
- (iii) that the tenant shall have an option to renew the lease for a further term of five years as from the expiry date of the lease, but in an event, this option being conditional on the observance by the tenant of the tenant's covenants in the lease.

On May 15, 2009, Sion assigned the lease to Laura. On taking possession of the premises, Laura noticed that the roof of the house was in need of repairs. She notified the landlord requesting that he carry out the necessary repairs which he failed to do. Recently, due to heavy rains, the damage to the roof caused severe flooding resulting in extensive damage to Laura's belongings. To avoid further damage, she used three months rent to effect the repairs. She has also denied the landlord permission to use the lawn tennis courts.

Recently, Laura has served the landlord a valid notice to exercise the option to renew. However, the landlord is claiming that she is in breach of clause (i) of the lease and has brought an action against her for recovery of possession of the premises for breach of the covenant to pay rent.

Advise Laura.

QUESTION 7

On June 1, 2008, Lenny leased a dwelling house for seven years to Rob, a professional golfer at a monthly rent of \$15,000 payable in arrears. Rob last paid rent on March 31, 2009.

On July 1, 2010, a bailiff entered the dwelling house to distrain for rent. The bailiff informed Rob that he was seizing the following goods: two watches, a bracelet and two sets of golf clubs all of which belonged to Rob and one bicycle which belonged to a student lodging with Rob.

Whilst the bailiff was not looking, Rob retrieved a watch and one set of the golf clubs which he needed for a tournament in which he intended to play on the following day. The bailiff stated that he was impounding the goods on the premises. The total value of the goods seized was \$150,000.

Two days later Rob, who had received no other communication from Lenny with respect to the distress, saw that a set of golf clubs was being advertised for sale.

Rob seeks your advice with respect to the validity of the distress.

Advise Rob.

QUESTION 8

Philip purchased a block of three apartments in April 2005. They are all subject to rent restriction legislation.

- (1) Apartment A was vacant and Philip moved in and occupied it until April 2006. He then let it on a monthly tenancy to Olga with the understanding that he might wish to regain possession.
- (2) Apartment B was also vacant. Philip let this apartment in May 2005 to Sylvia, a single mother with two small children. Philip has recently found out that Sylvia works as a prostitute, advertising her services and the apartment's telephone number in the newspapers. He has also discovered that she has recently been convicted of possessing ganja on the premises.
- (3) When Philip purchased the apartments, Apartment C was occupied by Doris as a statutory tenant. In July 2008, Doris fell ill and her daughter Ella moved in to look after her. In due course Ella started paying the rent. Recently Doris died.

Philip has recently been made a very good offer for the purchase of the block of apartments but the prospective purchaser wishes vacant possession.

Advise Philip as to his chances of recovering possession of the three apartments.
