

**COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL**

**LEGAL EDUCATION CERTIFICATE  
FIRST YEAR EXAMINATION, 1997**

**LANDLORD AND TENANT**

**Thursday, May 22, 1997**

**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 territory.
- (d) It is unnecessary to transcribe the questions you attempt.

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

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**QUESTION 1**

(a) Laurel has recently graduated from Teacher's College and has started teaching at a secondary school. For the last month she has been looking for accommodation in nearby residential areas but without any success. The places available for letting were all beyond her means as rental is high in these areas and her salary quite small.

Finally, last Tuesday she found a vacant apartment at a rental she could afford and for which her financial status as a young teacher was not against her .

As requested by the owner of the apartment, Richie, she paid two months' rent in advance. It was agreed that she would receive the keys to the apartment on the Friday as the apartment needed to be cleaned and painted.

On Friday afternoon when she went to the apartment to collect the keys and enter into possession she found it occupied by Sion who told her that he had let it on the Wednesday. He then gave her an envelope on behalf of Richie which contained the money she had paid to him.

**Advise Laurel.**

(b) In 1985, Jerry who lived in Canada, wrote to his agent Frank (who lived in your jurisdiction) and instructed him to "allow my cousin Scatter an acre of my land to cultivate to help support himself and his family."

Frank acted as instructed and Scatter went into possession and cultivated the land for about six years. He also occupied a chattel house thereon with his family.

In 1991, Scatter let the house and land for \$2,000 per year to Minnie who has continued to live there up to the present time although not cultivating the land.

In March 1997, Jerry returned home from Canada and found Minnie in possession of the land. He thereupon gave her notice to quit the house and land within two weeks. She has refused to do so, however, claiming that she is a yearly tenant of Scatter and is therefore entitled to one year's notice from him.

Jerry has sought your advice.

Advise him.

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## **QUESTION 2**

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 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;
  - (ii) that the tenant should 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 hereof.
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### **QUESTION 3**

- (a) Terese, a music teacher, entered into a three-year lease with Larry, the owner of premises in Uptown. Prior to signing the lease Terese informed Larry that she intended to use the premises as a residence and for giving music lessons. Larry agreed and indicated that there would be no breach of zoning regulation in doing so.

Immediately upon entering into possession, however, Terese found it impossible to conduct music lessons as a result of the noise from next door. The occupants of the adjoining premises who were also Larry's tenants used the premises as a social club and games arcade.

Terese therefore informed Larry that if she could not conduct her music lessons she would have no option but to vacate the premises. Last month she left the premises.

Advise Larry.

- (b) Tim is the tenant of an apartment in a strata/condominium complex. He has always paid the rent on time. His rent includes the maintenance charges on the apartment.

Three days ago he came home from abroad to find that there was no water in the apartment. At first he thought that there was a general water lock-off but later discovered that in fact the management committee had locked off the water to the apartment as his landlord was two months in arrears with payment of the maintenance charges on the apartment although he had paid the rent to the landlord.

Further, the corporate body/corporation has started to construct a tennis court in the common area in front of Tim's apartment. Tim does not play tennis and complains that the noise and dust created by the construction are intolerable.

Advise Tim.

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#### **QUESTION 4**

Your client, Marcus Upperlip, wishes to take a lease for 50 years of a great house built in 1850 and located in a rural community.

The house which is constructed of cut stone and timber is in a poor state of repair. The upper flooring which is made of wood is non-existent in places, the roof which is made of wooden shingles and timber beams is about to collapse and the walls are covered in moss.

The draft lease, prepared by the lessor's attorney-at-law, contains (inter alia) the following covenant by the lessee -

" To repair and keep in repair and good condition the premises hereby demised and the said premises being so repaired and kept to peaceably yield up to the landlord, his personal representatives or assigns at the end or sooner determination of the term hereby granted."

He further informs you that the house, not having been altered since its construction, does not have a bathroom or kitchen within it and he would wish to convert two rooms in the house for these purposes. There is no covenant in the draft lease against alterations or modifications.

He therefore seeks your advice as to the nature and extent of the obligations which will be imposed on him by the covenant to repair and his proposal to carry out the modifications.

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**QUESTION 5**

On May 10, 1992, Victor granted a lease of a dwelling house to Brian for a term of five years. The lease contained the following clauses, inter alia

- (i) that the landlord may have the right during the term of the lease 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 the right to renew the lease for a further term of five years as from the expiry date of the lease, but, in any event, this option being conditional on the observance by the tenant of the tenant's covenants in the lease.

On May 15, 1996, Brian assigned the lease to Lynda. On taking possession of the premises, Lynda noticed that the roof of the house was in need of repairs. She notified the landlord to do the necessary repairs which he has failed to do. Recently due to heavy rains the damage to the roof caused severe flooding resulting in extensive damage to Lynda's belongings. To avoid further damage Lynda used three months rent to effect the repairs. She has also refused the landlord permission to use the lawn tennis courts.

Recently, Lynda 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 Lynda for recovery of possession of the premises for breach of the covenant to pay rent.

**Advise Lynda.**

**QUESTION 6**

- (a) On May 10, 1996, Sheila became a yearly tenant of a furnished flat owned by Kareen (which is not subject to rent restriction/control legislation). The lease contained the following termination clause -

"Provided that in the event either party may wish to determine the tenancy, he shall serve at any time on the other party three months' notice to quit the premises."

A few weeks ago, Kareen wrote to Sheila seeking an increase in rent. Sheila wrote back saying that she would not pay anything over and above her current rent. Kareen was irritated by this reply and wrote to Sheila demanding that she vacate the flat by 10:00 a.m. the following morning. Sheila did not comply with this demand and went to work as usual.

When she got back in the evening, Sheila discovers that Kareen has changed the locks to her flat and thrown all her belongings out onto the landing.

Advise Sheila.

- (b) In the event you were retained by the landlord to draft the notice to quit, **Draft the Notice to Quit**, indicating the earliest possible date the landlord would have been entitled to possession.
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**QUESTION 7**

By a lease dated August 1, 1991, to Topsy for twelve years, Manny let a house at a yearly rent of \$24,000 payable by equal monthly instalments in advance. Further, Manny is the landlord and Cissy the tenant of a warehouse under a five-year lease granted on January 1, 1993. This lease contains a covenant against assignment by the tenant without the landlord's consent. Neither property is subject to rent restriction/control legislation.

Topsy's rent is now six months in arrears and Cissy on February 6, 1996, without the consent of Manny, assigned the residue of her term to Fred.

Manny wishes to know -

- (i) what procedure should be followed in order to distrain for the arrears of rent from Topsy; and
- (ii) whether he can terminate either or both leases, and if he can, what procedure should be adopted.

What is your advice? Give reasons.

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**QUESTION 8**

Your client, Audrey, is the owner of a dwelling-house which was let and was subject to rent restriction/control legislation before she purchased it in 1978 as a residence for herself and her children.

In 1996 when Audrey's younger child migrated to Canada to join her older sister, leaving Audrey alone in the house, she decided to convert the house into two self-contained apartments. In January 1997, the conversion having been completed Audrey went into occupation of one of the apartments and let the other to Lola.

Audrey determined the rent to be paid on the basis of the cost of renovation of the premises plus an annual return on investment of 30%. She also required the rent to be paid in United States currency.

Lola agreed to pay the rent set and in U.S. currency as she was desperate for accommodation.

Last month (April), however, Lola challenged Audrey on both the quantum of the rent and the payment in U. S. currency.

Audrey now seeks your advice on the following -

- (i) Is the apartment subject to rent restriction/control legislation having regard to the fact that it was originally part of a single dwelling unit?
- (ii) If the answer to (i) is yes how is the rent to be determined?
- (iii) If the answer to (i) is yes how might she lawfully terminate the tenancy?
- (iv) Is it illegal to calculate the rent in United States currency?

Advise Audrey.