

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
FIRST-YEAR EXAMINATIONS, 1998

LANDLORD AND TENANT

(Thursday, May 28, 1998)

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.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

- (a) Gary was a monthly tenant of Allan of a house in which Gary lived with his family. Without Allan's consent, Gary entered into an oral agreement with Millie for her to occupy the premises for six months in his place and to pay the rent to Allan in Gary's name.

Millie took possession of the house but after only two months had elapsed, Gary requested that Millie vacate the house so that he could resume possession.

Millie however has refused to give up possession and has continued to pay the rent to Allan.

Gary now seeks your advice. Advise him.

- (b) Bobbi orally agreed to let premises at 5 College Drive to Studios for a period of three years to commence on March 1, 1998. Studios had resigned from her employment and was hoping to start her own computer services business on the demised premises. She experienced some financial difficulties however in purchasing an advanced computer and so requested of Bobbi that she be permitted to commence her tenancy on April 1, 1998 instead. Bobbi agreed.

On March 15, 1998, however, Studios was asked to renew her employment with her former employers on very attractive terms to which she agreed. She therefore informed Bobbi by letter dated March 25, 1998 that she no longer needed the accommodation.

Bobbi is very upset, having already lost one month's rent and having spent a lot of money in adapting the premises for Studios' purposes.

Bobbi now consults you with a view to bringing an action for specific performance.

Advise her.

QUESTION 2

You have been asked by a client landlord to draft a short lease for use in respect of residential premises not subject to rent restriction/control legislation.

- (a) Outline the form and contents of your draft.
 - (b) Explain what obligations would be imposed by law and statute (if applicable).
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QUESTION 3

Linda, who owns a small apartment complex, recently granted a lease of one of the upstairs apartments for residential use only, to Dr. Egghead, a psychiatrist. The lease contained all the usual covenants contained in a residential letting. At the time of the demise, Linda had just begun erecting an additional block of apartments within the complex.

The tenants of the apartment downstairs are members of a commune and regularly entertain many friends in the apartment where there is much drinking and smoking.

Linda also owns the adjoining property on the northern side and has leased it to Tony Jones, better known as D.J. "Beenie Killer" who resides there but also conducts rehearsals on most weekdays between 2.00 p.m. and 10.00 p.m.

During the last two months, Dr. Egghead has been meeting with private patients in the afternoons at his apartment but has not been able to conduct his sessions properly because of the noise coming from the construction of the new building as well as the noise from "Beenie Killer's" rehearsals.

Further, the dust from the building site and the heavy smoke that comes upstairs from the apartment downstairs is affecting his sinuses. And to make matters worse, he is unable to sleep at nights until "Beenie Killer" has stopped rehearsing.

Advise Dr. Egghead.

QUESTION 4

Thomas recently leased from Larry for three years an apartment in a three-storey block of apartments which is part of a condominium/strata complex. The apartment is on the ground floor and is not subject to rent restriction/control legislation.

The lease contained, *inter alia*, a covenant by the tenant -

“to keep the interior of the leased premises and all the leased fixtures, fittings and glass therein in good tenable repair.”

There was no covenant on the part of the landlord to carry out any repairs.

Soon after he went into possession, Thomas noticed moisture and flaking on the ceiling of the bathroom and the kitchen. Approximately two weeks later, water began to drip from both the bathroom and kitchen ceilings.

Last week, Thomas spoke to Larry who told him that it was not his responsibility to repair the leak as it was coming from the apartment above and that he should discuss the matter with Sandra who was the owner and occupier of that apartment.

Thomas therefore spoke to Sandra who told him that the water dripping in the bathroom below came from an abandoned pipe running between the horizontal dividing wall between the two apartments. Sandra further explained that the corporation had six months earlier abandoned the use of all the old pipes in the building, but that pipe had not been properly sealed, hence the leak. The corporation was of the view, however, that the pipe was no longer their responsibility, but that of the two owners.

With respect to the leak in the kitchen, Sandra explained that that leak came from the pipe leading from the water heater which Larry had run in the ceiling and therefore was a problem with respect to that apartment only.

Thomas now seeks your advice.

Advise him.

QUESTION 5

In 1980, Hyrise Properties Ltd. demised a newsagent shop to Daniel for a term of twenty years from November 25, 1980. By the lease, Daniel covenanted, *inter alia* -

- (a) not to assign, underlet or part with possession of the premises or any part thereof;
- (b) not to use the premises for any unlawful or immoral purpose.

It has come to Hyrise's attention that -

- (i) Daniel's wife, Sara, has recently been in trouble with the police for selling obscene magazines and videos in the shop. Daniel has actively encouraged his wife in this venture. Hyrise became aware of these facts in early May 1997.
- (ii) Barbara is occupying the basement of the premises as a sub-tenant of Daniel. There is strong evidence that she is using this accommodation for the purpose of prostitution and that Daniel and his wife have turned a blind eye to this. These facts came to light in August 1997.

The rent due on June 24, 1997 in advance was duly paid by Sara on behalf of her husband. No other rent has been demanded or accepted. Hyrise would like to get possession of the premises.

Advise Hyrise.

QUESTION 6

In 1995, Mr. Parker by deed leased a dwelling house to Pamela for a period of seven years at a rent of \$8,000 per annum payable quarterly. The lease contained the following clauses -

- (1) the tenant, if he so desires, may at any time during the term, purchase the reversion for \$300,000 on giving to the landlord six months notice in writing of such desire;
- (2) not to use the property for any purpose other than residential;
- (3) to erect a concrete wall around the demised premises within two years from the commencement of the term hereby granted.

In January 199⁶~~4~~, Pamela assigned the property to Charles, who nine months later, sublet to Sham for the remainder of the term less one day. After the assignment, Parker conveyed the reversion to Suresh who has now discovered that -

- (a) the rent is two months in arrears;
- (b) Sham has started to operate a club in the house;
- (c) Charles would like to exercise the option in clause 1 of the lease;
- (d) the wall has not been constructed.

Advise Suresh.

QUESTION 7

In June 1997, T rented two rooms from L on a monthly tenancy. In December 1997, L sells the building in which the two rooms are housed to P. When P inspects the existing records for the tenants of the building he discovers that T owes rent totalling \$15,000 for the months of August, September and October 1997. P immediately makes a demand on T for the amount owing, whereupon T clandestinely removes all his possessions to his sister's house.

The following day, P discovered what had taken place and sent his business partner B to T's sister's house to levy distress on the goods. B forcibly entered the house and took all of T's wearing apparel, certain tools of his trade and his oil painting of "The Last Supper".

It turns out that T had previously gone to his sister's house and removed everything else of value to a newly rented house. P is unable to get any offers to buy the clothing and tools and he fears the painting may be a worthless imitation. P therefore visits T's newly rented house and takes his watch and colour television.

Advise T as to his rights.

QUESTION 8

Sharon, a first-year student at Youteck College, enters an arrangement with the Welloffs under which she occupies a furnished room with bathroom attached. She prepares the Welloffs' small daughter Prissy for school each morning, cooking and sharing breakfast with the child.

Sharon also has an evening meal with the family at weekends when she is expected to baby-sit with Prissy. Sharon otherwise has free access to the kitchen, laundry room and family room and contributes \$500 per week to the household.

She now wishes to abandon all responsibilities for helping with the child and to have a standard/controlled rent fixed for her accommodation.

Advise her -

- (i) of the machinery, procedure and principle by which standard rent is fixed;
 - (ii) on her eligibility to sustain a successful application.
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