

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
FIRST YEAR EXAMINATIONS, 2006

LANDLORD AND TENANT

(WEDNESDAY, MAY 17, 2006)

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

In August 2002, William, a lecturer in Linguistics, at the College of Fast Track Learning, opted to find his own accommodation and accept a housing allowance of 30% of his salary each month rather than occupy a house provided on the College campus which would cost him 10% of his salary each month.

William finds a house suitable to his needs, but which is not subject to rent restriction legislation. In order, however, to comply with the usual formalities required by the College the house was let by the owner, Andrew, to the College on a yearly basis from August 30 of each year and the College then orally sublet to William on a monthly basis.

In September 2003, William, let a self-contained studio apartment attached to the house, to Malcom, a medical student, for a fixed term of three years at a rental of \$1,200 per month excluding electricity and water. Malcom who is a former chef also undertook to cook on weekends for William when his studies permitted and on each occasion when he did so William gave him a rebate of \$1,000 on the rent for the month.

In April this year (2006) William terminated his contract with the College and has left the country. Last week Malcom received a letter from the College instructing him to vacate the premises with immediate effect as he is a mere trespasser and that the premises are required for occupation by another lecturer.

Malcom, however, is very anxious to remain in occupation as he has to take his final exams in July and has neither the time nor the financial resources to find other accommodation almost at the end of the academic year.

Advise Malcom.

QUESTION 2

Your client, Rose Jones, who resides abroad, recently inherited an apartment which is part of a condominium/strata complex. The apartment was owned and occupied by her grandparents. She has no desire to occupy the apartment nor to sell it at this time, but instead wishes to lease it for an extended period.

Not having any knowledge of condominium/strata complexes she wishes advice on the legal considerations that she should be aware of in leasing the apartment.

Advise Rose Jones.

QUESTION 3

At the end of October 2005, Bert purchased a dwelling house which is exempt from rent restriction legislation. The house has been occupied under an oral monthly tenancy for some ten years by Tanya who has used it as a residence for herself and her four children.

Tanya has also, since 1998, run a day-care centre in an outhouse located in a corner of the garden.

In mid-March 2006, Tanya went on holiday and instructed her eldest son to pay the rent in cash, as was required, to the new landlord Bert at his place of business. Rent was due on April 1.

On Tanya's return on April 16, she discovered that the rent for April had not been paid and immediately delivered a personal cheque for the arrears to Bert's wife at his residence.

The following day (April 17) Tanya received from Bert a notice to quit in one month's time for arrears of rent. Further he ordered her to immediately discontinue operating the day-care centre as the premises were for residential purposes only.

Tanya is very distressed at this turn of events as she had hoped to remain in possession for many years more. In addition, she had got permission from the previous owner to operate the day-care centre even though it was located in a residential area.

Tanya now seeks your advice.

Advise Tanya.

Would your advice be any different if the premises fell under the provision of rent restriction legislation?

QUESTION 4

Miss Shawna Thomas has come to see you. She shows you a medical report which states, amongst other things, that she had received a number of severe dog bites a few weeks ago and she had to spend ten days in hospital.

Further she tells you that two months ago (March 2005) she let a semi-detached flat from Mr. Sean Brown in Lona Heights. She further tells you that on the afternoon she went to look at the flat she saw a number of dogs in a kennel on the property. They appeared quite aggressive so she asked whether they were always confined and she was told no, but that their bark was worse than their bite. If she decided to take the flat she would get used to them in no time and if they approached her all she had to do was to tell them to move.

A week later she moved into the flat. For the first two weeks she had no contact with the dogs as they were confined when she left in the morning and returned in the evening. However, on March 20 she received a telephone call that she should report for work at 6:00 a.m. the following morning. When she was ready to leave that morning it was still fairly dark and when she opened the door the dogs were loose. As she moved towards the gate they began to bark at her and although she told them to move one of the dogs jumped at her and the other dog started to bite her all over her body. She then had to be hospitalized. She has not returned to the flat since and is staying with her parents.

Two days ago she received a note from the landlord reminding her that she has not paid rent for April and May.

She now seeks your advice.

Advise Shawna.

QUESTION 5

Karen has been the tenant of commercial premises on High Street since 2000. 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 2001.

On December 22, 2005, the Paradise Development Company served Karen with 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 the Paradise Development Company which has denied liability.

The 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 6

On March 1, 2003, Loser leased his house (which is exempt from rent restriction legislation and is located on un-registered land) to Tommy for 5 years at an annual rent of \$300,000 payable by equal monthly installments. The lease contained the following covenants by the tenant:

- (i) to pay the rent reserved at the time and in the manner aforesaid;
- (ii) at the tenant's expense to build a swimming pool at the demised premises;
- (iii) to keep the demised premises at all times insured against loss or damage by fire;
- (iv) to use the demised premises for residential purposes only.

The lease also contained a proviso for re-entry on breach of any of the tenant's covenants.

On March 10, 2006, Tommy began conducting his real estate business from the demised premises. Further, the swimming pool has not yet been built and the house is uninsured although on September 5, 2005, Loser had requested Tommy to commence the construction of the pool and to insure the house.

Advise Loser whether he can forfeit the lease and if so, what steps he should take in each case to enforce the forfeiture.

QUESTION 7

On May 1, 1995, Thomas leased his two-storey building to Larry, a motor mechanic, for 15 years at a yearly rent of \$36,000 payable by equal monthly installments. From the date of the lease, Larry has been living on the first floor using the ground floor as a motor mechanic garage.

The last eight months rent being in arrears, last Friday Thomas' bailiff entered the premises and found Mrs. Larry cleaning. He seized the vacuum cleaner from her whereupon Mrs. Larry took it away from him and fled the premises with it. The bailiff then seized a double-decker bed and bedding and a refrigerator, both the property of Larry, and an exercise bicycle Mrs. Larry had borrowed from her friend, Jane. On the ground floor the bailiff seized a motor car belonging to Byron who had driven it to the garage in order to enquire whether his motor cycle was ready.

Advise Larry, Mrs. Larry and Byron.

QUESTION 8

Alexia Montano, a widow, has occupied with her three children a three bedroom house in Castle Heights since October 1991 (which is subject to rent restriction legislation). Alexia is a monthly tenant. The landlord, Carlos de Silva, who lives abroad has left an agent in charge of the premises. The agent, however, has omitted to collect the rent for many months and Alexia who has treated the house as her own, spent a substantial sum of money on repairs and general maintenance. Her children all go to school nearby and she has established a

very reputable hair-dressing business which she carries on in a front room of the house.

In January 2006, Carlos wrote to Alexia informing her that his daughter Lola, a medical practitioner who was planning to return to the country with her husband and child, was very anxious to set up her medical practice at the house in Castle Heights, since she had always hoped to return home and serve the community. In addition, she (Alexia) was now in arrears of rent for eighteen months.

- (i) Advise Carlos of his chances of succeeding in recovering possession.
- (ii) Would your answer be different if Carlos had identified alternative residential accommodation for Alexia, but she has rejected this on the ground that she would lose her customers?
