

COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
FIRST YEAR EXAMINATIONS, 2012

LANDLORD AND TENANT

(WEDNESDAY, MAY 16, 2012)

**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.
- (e) Answers should be written in ink.

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PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

## **QUESTION 1**

On January 1, 2010, Bob Jones (Bob) entered into a five-year lease with John Brown of an unimproved one-acre lot of land known as Blue Acre.

Bob's lease stated as follows –

*“This lease is entered into between John Brown (Landlord) of Red Acre, St James, carpenter and Bob Jones (Tenant) of Blue Acre, St. James, mason on the 1<sup>st</sup> day of January 2010.*

*The Landlord lets and the Tenant takes the premises known as Blue Acre, St. James, consisting of one acre for a period of 5 years at a monthly rental of \$1,000 in advance.*

*Permission is given to build a wooden house on the land. House to be removed at the end of the lease.”*

The lease was signed by both parties.

In January this year (2012) Evan Thomas (Evan) sublet one-half of Blue Acre from Bob for three years. Evan's lease was also in writing, his rent was \$500 monthly payable in advance and he was permitted to build a wooden house on the land.

Evan then built the wooden house and began living there with his wife and three children.

In March 2012, a Miss Brown entered Evan's lot of land and claimed ownership of the land. She stated that she had terminated Bob's lease as of March. She further instructed Evan to pay no further rent to Bob.

Evan, however, has continued to pay the rent to Bob, having been advised by Bob that his (Bob's) lease had not yet come to an end. Bob, however, admitted that Miss Brown was indeed the new owner of Blue Acre as the beneficiary of her late father's estate. Her father, John Brown, died in 2011.

Last week Miss Brown again visited Evan and threatened to evict him for non-payment of rent and insisted that next month's rent must be paid to her. She further told him that his lease was in fact invalid, as Bob could not sublet part of the land he had leased.

Evan and Bob now consult you and seek your advice.

Advise Evan and Bob.

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## **QUESTION 2**

In August 2011, Dr. Larry Leadbitter, a university lecturer in chemistry, was about to go on a year's sabbatical leave. He wished to leave, while he was on sabbatical, students in occupation of the university house which he occupied and for which he paid \$4,000 per month. He therefore arranged with Mary Ward and Kay Cameron, two law students, to stay in the house until August 2012. They agreed, *inter alia*, to pay \$48,000 per month for use and occupation.

The full agreement stated –

*“THIS AGREEMENT is made the 1<sup>st</sup> day of September 2011 BETWEEN LARRY LEADBITTER of Eastern University, Lecturer (hereinafter referred to as “the Licensor”) of the ONE PART and MARY WARD and KAY CAMERON both of Eastern University, law students (hereinafter referred to as “the Licensees”) of the OTHER PART whereby it is agreed as follows –*

1. *The Licensor grants to the Licensees the right to use in common with others who have or may from time to time be granted the like right to the house known as "10 University Drive", but without the right to exclusive possession of any part of the said house together with the fixtures, furniture, furnishings and effects now in the said house for one year from the 1<sup>st</sup> day of September, 2011.*
2. *The Licensees agree with the Licensor as follows –*
  - (a) *To pay the sum of \$48,000 per month for the right to share in the use of the said house, such sum to be paid on the first day of each month, the first payment to be made on the 1<sup>st</sup> day of September, 2011.*
  - (b) *To pay for all utility bills, to maintain the garden, to keep the furniture in good condition and to keep the interior in repair.*
  - (c) *To share the use of the said house peaceably with and not to impede the use of the said house by such other persons to whom the Licensor has granted or shall from time to time grant licences to use the said house in common with the Licensees and not to impede the use by such other persons of the electricity, water and telephone services supplied to the house, provided that each share the cost of such services.*
3. *Provided as follows –*
  - (a) *If the said sum or any part thereof shall be in arrears or unpaid for at least fourteen days after the same shall have become due; or*
  - (b) *In the event of any breach by the Licensees of the agreements herein contained then the Licensor may by notice, forthwith determine this agreement but without prejudice to any other remedy of the Licensor.*

*AS WITNESS the hands of the parties hereto the day and year first before written."*

In April this year (2012) Larry returned to the jurisdiction ahead of time and requested Mary and Kay to vacate the premises at the end of May, as they are licensees. They have come to

see you and show you the agreement for your advice. They tell you that they have been the only occupants of the house to date and have not breached any terms of the agreement.

Advise them.

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### **QUESTION 3**

In January this year (2012), Andre took a three-year lease on townhouse number 5 in a row of five townhouses belonging to Mark.

As a result of faulty construction, soon after Andre took possession of his townhouse, water began to seep into his bedroom from the bathroom of townhouse number 3.

In February, Mark leased townhouse number 7 to a group of young men who regularly chant, clap and pray between 11:00 p.m. and 3:00 a.m. They also play their television set very loudly and continuously during the day. As a result, Andre's work as a computer programmer is beginning to suffer from the lack of sleep by day or night.

There is also a derelict house owned by Mark on the grounds opposite to Andre's townhouse complex, and large rats have been invading Andre's small garden and ground floor rooms much to the distress of his wife and small daughter.

Andre is of the view that his right to quiet enjoyment has been breached by Mark. He therefore seeks your advice.

Advise Andre.

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#### **QUESTION 4**

By a lease dated June 1, 2000, Lisa-Ann demised Bristol Hall, a house built in 1950, to Tessa for a term of 21 years. By clause 3 of the lease Tessa covenanted –

*“to keep the demised premises and all additions thereto at all times during the said term in good repair.”*

Two weeks ago, along with a building engineer, Lisa-Ann exercised her right to inspect the premises once per year. She has now presented Tessa with a formidable schedule of dilapidation as follows –

1. One-third of the shingle roof and the support beams have rotted and need to be replaced – cost \$500,000.
2. Forty percent of the upstairs wooden flooring has also rotted, as a result of the disrepair of the roof, and needs to be replaced – cost \$300,000.
3. The walls of the laundry room and helper’s quarters, which were added to the rear of the house in 1970, have become unsafe due to poor construction in breach of the building code – cost \$3,000,000.
4. The house needs to be repainted and parts of the internal woodwork which have rotted need to be replaced – cost \$400,000.

A valuation report requested by Tessa and given to her two days ago states that the house is valued at \$12,000,000.

Tessa has come to see you as to her liability, if any, with respect to the defects set out above.

Advise her.

## QUESTION 5

Joseph is the tenant of a four-bedroom dwelling house (not subject to rent restriction legislation) let to him by Carl. They agreed to a lease of five years at a monthly rent of \$50,000. The lease contains *inter alia* the following tenant's covenants –

- 7.1 *To pay the rent reserved in the manner aforesaid;*
- 7.2 *Not to assign, sublet or part with possession of the premises without the previous written consent of the landlord, such consent not to be unreasonably withheld;*
- 7.3 *To use the premises as a private residence for the occupation of the tenant's household only.*

Joseph has found himself in financial straits. Late last year, Joseph asked Carl, to consent to his subletting a bedroom to Donald, a dancer. Carl refused, saying that he does not like men who dance for a living. In January this year (2012), without consulting Carl, Joseph sublet the bedroom to Donald and another bedroom to Condoleeza. Also in that month, Joseph placed several newspaper advertisements for lodgers. He has since taken in paying guests who stay in one of the bedrooms for one to two weeks at a time. Joseph owes no rent.

At the end of last month (April), Carl became aware of what Joseph has done.

- (i) Advise Carl as to whether Joseph is in breach of any covenants and the remedies available to him (Carl).
- (ii) Would your advice be different if the lease contained a right of forfeiture and re-entry? If yes, in what way?

## QUESTION 6

In 1992, Pearl granted Isa a 20-year lease of a pastry shop, rent to be paid annually. The lease provides that Isa should “*maintain and keep the demised premises in good repair*”. Also included in the lease is an option, which confers on Isa the right –

*“After the expiration of 19 years from the date of the demise herein, by notice, to renew the lease of the demised premises for a further term of 20 years as from the expiry date of this demise on the same terms of this lease save that the rent for any renewed term shall be fixed having regard to the market value of the demised premises at the time of exercising this option and any renewed lease shall not contain this option to renew but, in any event, this option being conditional on the observance by the tenant of the tenant’s covenant in the lease.”*

The lease further provides that if Isa wishes to renew the lease she should serve on the landlord a notice of intention so to do.

In 2010, Pearl sold her reversionary interests to Flaky Patty Ltd. In 2011, Isa served on Flaky Patty Ltd. a notice of intention to renew as required under the terms of her lease. Her new landlord, however, has refused to renew the lease, on the ground that Isa, by failing to repair a cracked block wall at the side of the shop, had breached the tenant’s repairing covenant and is therefore barred from exercising the option.

Isa admits to failing to repair the wall but contends that the cracking is *de minimis* and that at any rate Flaky Patty Ltd. had accepted rent with knowledge of the cracking. Flaky Patty Ltd. had accepted the rent but “without prejudice”.

Advise Isa.

## **QUESTION 7**

On May 1, 2006, James let a large two-storey building to Barry on a yearly tenancy and at a rent of \$18,000 payable by equal monthly instalments. From the date of the letting, Barry and his wife Sonia have been living on the first floor while he (Barry) used the ground floor as a workshop for the repair of domestic appliances. Sonia is a physiotherapist and conducts physiotherapy sessions on the premises. Rent for the last six months is in arrears. Last Monday at 9:00 a.m., a bailiff with the necessary legal authority, but acting on the instructions of James, entered the premises through the back door which was closed but not locked. He then seized and carried away certain items.

From the first floor he took a medical bed, an electric clock, an exercise machine and four new dresses, all belonging to Sonia, and a television set on loan to Barry from his neighbour Kate.

From the ground floor the bailiff took a washing machine which was left by Kate for repairs. He also took a box of tools and a welding plant belonging to Barry.

The total value of the articles seized amounts to approximately \$175,000.

Advise Barry, Sonia and Kate.

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## **QUESTION 8**

Ken has recently acquired three properties which are subject to rent restriction legislation. The properties are known as numbers 1, 3 and 5 Butter Drive. No. 1 is a two-bedroom two-storey house which is presently unoccupied. No. 3, a one-bedroom cottage, is let to Meg at a rental of \$6,800 per month. No. 5 is a four-bedroom house, and is let to an elderly couple, Mr and Mrs Youngblood, who have been living there for ten years as monthly tenants.

With regard to No. 3, it appears to Ken from the number of different motor cars and Ninja bikes seen at the gate daily, that the cottage is being used for immoral purposes.

With regard to No. 5, Ken has decided that he would like to live in it along with his wife and three children.

- (i) What steps should Ken take with a view to obtaining possession of No. 5? Is he likely to succeed?
- (ii) Ken intends, whenever Meg is not at home, to enter with workmen and place Meg's possessions on the lawn and bolt up the doors to the cottage. Advise Ken on this course of action.
- (iii) Ken intends to lease No. 1 and has sought your advice as to the procedure to be followed in determining the rent. Advise him.

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**END OF PAPER**