

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

**LEGAL EDUCATION CERTIFICATE  
FIRST YEAR EXAMINATIONS, 2013**

**LANDLORD AND TENANT  
(WEDNESDAY, MAY 15, 2013)**

**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 black or dark blue ink.

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

## **QUESTION 1**

Through a series of letters and emails, Laugton agreed to lease Tarik his two-bedroom house for five years, at an annual rent of \$144,000 payable by equal monthly instalments. Tarik also agreed that he would paint the interior of the house every Christmas and the exterior at the end of the second and fourth years. He would also have the option to renew the lease, if he indicated his desire to Laugton in writing, at any time before the expiration of the five years. Tarik entered into possession on January 1, 2009. A lease was subsequently drafted but it was not executed by either party.

Since he entered into possession Tarik has paid the rent, as agreed, on time. He has also painted the interior of the house every Christmas and the exterior at the end of 2010 and 2012.

In March this year (2013), Tarik gave a letter to Laugton indicating that he wished to renew the lease for another five years. Laugton's response was "What lease? The lease was never signed."

On May 1 this year (2013), Laugton served a one month's notice to quit on Tarik, referring in the notice to "Tarik's monthly tenancy".

Tarik now seeks your advice. He wants to have the lease executed, and he also wants to stay on in the house for another term of five years.

Advise him.

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## **QUESTION 2**

In June 2011, the Church of True Believers (the Church) inherited an apartment complex from one of its devoted communicants.

The complex consists of five one-bedroom apartments and fifteen studio apartments, with a garden and common laundry area.

The Church decided to use ten of the studio apartments to accommodate the theological students it sponsors at the Bible College and to offer paid accommodation to other young working adults who are Church members.

Your client, Edwardo Diaz, who was a member of the Church until March this year (2013), had entered into a written agreement to rent a one-bedroom apartment. He tells you that he had a disagreement with the Board of the Church and as a result he recently left the Church. The Church has now given him one week's notice to quit the apartment on the ground that he is only a licensee.

The agreement executed by himself and the Board of the Church provides *inter alia*-

### **“RESPONSIBILITIES OF RESIDENTS**

- a) To pay the rent (which includes a flat rate for water and electricity that is subject to review each year) and the security deposit on or before the agreed date. All other charges are to be paid separately.
- b) To keep the surroundings clean at all times: the interior of the premises and the porch area must be clean and tidy at all times; windows must be washed regularly. The owners will undertake the cleaning of all common areas. If for any reason the common areas need to be cleaned beyond ordinary, the residents will be charged for additional cleaning.
- c) In the event of any damage to the premises or furniture specified in the attached inventory (fair wear and tear excluded) caused by a resident or his/her guest(s), the

resident will forfeit his/her security deposit. If the cost of repairs exceeds the deposit, the resident must pay the difference.

- d) Not to alter the structure of the premises or carry out any redecoration without the approval of the Administrative Assistant (this includes the erection of shelving). Wall hangings may be done using only mapping pins.
- e) To ensure that no disturbance or inconvenience is caused to fellow residents by any anti-social behaviour such as allowing guests to invade the common areas in a fashion that causes annoyance or impedes the usage of other residents. Noise must be kept at a minimum especially at nights.
- f) Not to assign or part with anything belonging to the owners.
- g) To use electricity and water conservatively. All lights must be turned off when not in use.
- h) Not to do or allow to be done any action which results in the owners insurance policy being made void or the premiums increased.
- i) Not to smoke in any of the buildings or rooms.
- j) Not to keep animals on the premises.
- k) To give at least one month's notice of intent to terminate tenancy.
- l) Anyone found in violation of these regulations will be asked to leave with immediate effect and will forfeit all sums paid.

#### **OBLIGATIONS OF THE OWNERS**

- a) To pay all water, electricity and taxes and assessments due for the premises.
- b) To maintain and repair the structure and fabric of the premises, including drains, plumbing water and electrical installation.
- c) To respect the residents' right to privacy.
- d) The owners reserve the right to periodically inspect the residences to ensure compliance with this agreement.
- e) Where there is a clear breach of this Tenancy Agreement on the part of the residents, the owners will seek repossession of the premises by serving the tenants a formal written notice stating the ground under which repossession is sought. The period of notice will usually be one month unless circumstances require immediate repossession."

Edwardo now seeks your advice.

Advise Edwardo.

### **QUESTION 3**

Your client, Brain Storm, who is a neurosurgeon, comes to see you in great distress.

He tells you that three months ago he leased, from Mr Tough Nails, townhouse No. 3 in a townhouse complex for a term of three years. Nails is a property developer and owns three townhouses, Nos. 1, 3 and 5 in the complex which he had developed some years ago. The townhouse is not subject to rent restriction legislation.

Brain further tells you, that at the time of the demise, townhouse No. 1 and No. 5 were unoccupied. One month ago, however, a family moved into No. 1 with a pair of shih tzu dogs, which are the children's pets. These dogs, although small in size, are highly excitable. They are kept mainly on the back porch of the house with the result that when they bark at night, which they often do for extended periods, Brain is unable to sleep. He is now therefore suffering from acute sleep deprivation.

To compound matters, he tells you that last week workmen started working on townhouse No. 5, which is in a state of disrepair as a result of a fire that occurred sometime ago. The noise and dust from this activity begins at 7 a.m. and goes on until 6 p.m. Monday to Saturday, much to the consternation of Brain's wife and 4 year old daughter. Further, the smoking of ganja by the workmen is his greatest concern as the smoke often blows over to his townhouse, affecting his wife and daughter.

He shows you his lease which, you note, does not include any covenant by the landlord for quiet enjoyment.

In these circumstances Brain seeks your advice.

Advise him.

#### **QUESTION 4**

Your client, Nerine Uppercrust, wishes to take a lease for 50 years of an historic Georgian building which was built in 1830 and located in an historic Georgian town. She intends to use it as a boutique.

The building, which is constructed of cut stone and timber, is in a state of disrepair. 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 representative or assign at the end or sooner determination of the term hereby granted.”

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

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

Advise her.

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## **QUESTION 5**

National Oil Co., a supplier of petrol and petroleum products, granted Rexon Ltd. a ten-year lease of a petrol filling station with effect from January 1, 2010. The lease contains, *inter alia*, the following –

- (i) a covenant by the tenant to pay the rent quarterly in advance;
- (ii) a full repairing covenant including structural repairs by the tenant; and
- (iii) a covenant stipulating that the tenant should purchase all of its petrol supplies from the landlord.

Last year, Rexon Ltd. were unable to pay any rent due to financial difficulties, and so on January 1, 2013, they assigned the remaining seven years of the lease to Sunbeam Garages. National Oil Co. consented to the assignment but were not a party to the deed of assignment.

On March 1 this year (2013), National Oil Co. sold their reversion to Lubricators Ltd.

Sunbeam Garages have refused to pay the second quarter's rent to Lubricators Ltd. because they claim that the premises are in need of repair and they have also refused to accept supplies of petrol from Lubricators Ltd.

Lubricators Ltd. now wish to –

- (a) recover the year's unpaid rent from Rexon Ltd.;
- (b) recover the second quarter's rent from Sunbeam Garages;
- (c) enforce the repairing covenant; and
- (d) enforce the covenant to supply petrol to Sunbeam Garages.

Lubricators Ltd. have now consulted you.

Advise them.

## **QUESTION 6**

Sean is the owner of commercial premises comprising several shops. On June 1, 2010, Roscoe leased Shop No. 10 for one year. At the expiration of that lease Roscoe continued in occupation of the shop at a monthly rental of \$50,000.

Sean now has other plans for the shop and wants Roscoe out. He persuaded his friend, who fancies himself a lawyer, to draft a notice to quit to be served on Roscoe. The notice is dated April 20, 2013, and advises Roscoe that he is to vacate the premises "on or before May 20, 2013". When Sean went to Roscoe's shop on April 20, 2013, Roscoe was not there, so he left the notice with Roscoe's shop manager.

On the same premises, Frances occupies Shop No. 3 on a yearly tenancy arrangement which commenced on March 1, 2008. Frances recently married her American sweetheart and intends to move to the U.S.A. shortly. She returned from the U.S.A. recently and expects that her immigration status will be regularized later this year. On March 1, 2013, she served a notice to quit on Sean dated the same day. The notice stated:

"Dear Sean,

It has been a pleasure being your tenant. However, due to personal circumstances, please take notice that I intend to quit your premises (Shop No. 3) at the end of May this year (2013), or perhaps even a month earlier – depending on when my immigration papers come through. Thanks for your kind understanding.

Frances"

On the recommendation of a friend, Sean comes to see you for advice. Roscoe has contended that this is not a proper notice and therefore he has no intention of moving. Frances has started selling off the contents in her shop.

Advise Sean as to the validity of the respective notices.



## **QUESTION 7**

Three months ago, Happy Mart Ltd., furniture dealers, sold on hire purchase terms, a “Deluxe Super-Soft” king-size bed valued at \$20,000 to Kay who is the tenant of an apartment owned by Harry. The rent for the apartment is \$35,000 per month. Kay, having made no payment to date, has been served with notice of default by Happy Mart Ltd.

Kay is also in arrears with the payment of her rent and now owes Harry \$70,000. Harry therefore asked his friend Biggs, who is a taxi driver, to levy distress on the premises. On Sunday night this week at about 8 p.m. Biggs entered the apartment by forcing open the main door and took away the bed, a new Mac Pro 15” lap-top computer and a 46” Sony HD flat screen television.

Advise:

- (i) Happy Mart Ltd. whether they can recover the bed and what action they need to take; and
  - (ii) Kay, who wishes to sue Harry for illegal and excessive distress.
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## **QUESTION 8**

- (a) Your client, Bishop Thomas Julius, is a Bishop of his church. A strong believer in the sanctity of marriage and the family, he discovered that one of his tenants, Tenny, a married man with children who had let a dwelling house from him, is now living in the house with his mistress, Angie, and their children. Further, it has been brought to the Bishop’s attention that Angie is using the helper’s room as an outlet for the sale of “adult toys”. The house is subject to rent restriction legislation.

Advise him.

- (b) Dr. M. Khan comes to see you. He tells you that two years ago he came to your jurisdiction as a medical doctor to work in a rural hospital. He was provided with accommodation at the hospital but, because he is a devout Muslim, he chose to rent a house in the capital city which has the only mosque in the jurisdiction. In addition, he also wishes his two young children to attend school in the city. The house is subject to rent restriction legislation.

Last week, Dr. Khan received a notice to quit from his landlord on the ground that he (the landlord) needs the house for the use of his son who intends to return home from overseas, having completed his studies. The landlord has also offered Dr. Khan alternative accommodation of a commodious house, currently occupied by the landlord, and which is located two miles from the hospital at which he (Dr. Khan) works.

Your client however wishes to remain in the city for the reasons he has already given. He therefore seeks your advice.

Advise him.

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**END OF PAPER**