

COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
FIRST YEAR SPECIAL SUPPLEMENTARY EXAMINATIONS, OCTOBER 2014

LANDLORD AND TENANT

(WEDNESDAY, OCTOBER 1, 2014)

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**

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 \$100,000. 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 May this year (2014), 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 (September), 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 2

In December 2013, Professor Barnaby Methonale, 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 \$10,000 per month. He therefore arranged with Maria Wand and Carlene Heslop, two law students, to stay in the house until December 2014. They agreed, *inter alia*, to pay \$50,000 per month for use and occupation.

The full agreement stated –

*“THIS AGREEMENT is made the 1<sup>st</sup> day of January 2014 BETWEEN BARNABY METHONALE of Eastern University, Lecturer (hereinafter referred to as “the Licensor”) of the ONE PART and MARIA WAND and CARLENE HESLOP 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 January, 2014.*
- 2. The Licensees agree with the Licensor as follows –*
  - (a) To pay the sum of \$50,000 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 January, 2014.*
  - (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 August this year (2014) Larry returned to the jurisdiction ahead of time and requested Maria and Carlene to vacate the premises at the end of September, 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 September 2013, Aliya leased premises to Jean for the purposes of operating a recreational park and garden which she uses to host social events for one year, with an unrestricted option to renew if Jean desires.

Since November 2013, Jean has leased the adjoining premises to Marcie who uses it as a plant nursery, florist shop and part-time residence. Marcie has complained regularly to Aliya about the noises and smells emanating from Jean's premises and has threatened proceedings for nuisance and breach of the covenant of quiet enjoyment.

Jean's lease will shortly be up for renewal.

Advise Aliya –

- (i) if she can avoid renewing the lease;
- (ii) if the lease were renewed whether there is any way of avoiding further annoyance to Marcie; and
- (iii) whether she has any present liabilities to Marcie.

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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 dilapidations 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.

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### **QUESTION 5**

Shalman has a five-year lease of commercial premises in Dingtown. The lease provides, *inter alia*:

- (i) that the tenant will not use the premises as a bakery or patty shop;
- (ii) that the tenant will pay all the rates and taxes as they fall due on the premises; and
- (iii) that the tenant will maintain the premises.

Advise Shalman as to his liabilities under the lease in the following circumstances:

- (a) The Town Council, in pursuance of its obligations under the public health legislation, is laying a sewer pipe along the highway and has imposed a rate of \$15,000 on each property owner to defray the costs. The Council has also made it obligatory for all occupiers to pay the full cost of connecting the sewer pipe to all outflows on their premises.
  
- (b) Shalman operates the premises as a supermarket, but one section of the supermarket is devoted solely to bread, biscuits, cakes and patties, which are freshly prepared everyday by Shalman's wife. The landlord issues him with a notice that he is in breach of covenant and that he intends to repossess the premises.
  
- (c) Fabian, a customer, was injured when he tripped on a loose tile on the floor of the supermarket and is claiming damages against Shalman for his injuries.

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### **QUESTION 6**

By a lease dated June 1, 2012, Lana let a dwelling house to Tessa for five years, at a monthly rent of \$10,000. In June 2013, Tessa sublet a room in the house to Suzan at a monthly rent of \$3,000. In October 2013, Tessa took in Cora as a lodger at a monthly rent of \$7,000.

Tessa is now six months in arrears of rent. Lana has made several demands for payment of the arrears but each time Tessa's response was that she had no money because Suzan and Cora were not paying their rent.

You are consulted by Lana who tells you that she would like to levy distress to recover the arrears. She also tells you that early this morning Tessa moved some of her (Tessa's) household appliances to a storage facility.

Advise Lana as to the procedure to be followed to levy a distress.

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### **QUESTION 7**

By a lease dated May 1, 2004, Norman let a house to Desmond for 12 years at a yearly rent of \$300,000 payable by equal monthly instalments in advance. Further, Norman is the landlord and Francis the tenant of a warehouse under a ten-year lease granted on January 1, 2005. The latter lease contains a covenant against assignment by the tenant without the landlord's consent. Desmond's rent is now three months in arrears and Francis, on July 6, 2013, without the consent of Norman, assigned the residue of his term to Joseph.

Norman wishes to know whether –

- (i) there is any legal remedy, other than proceedings in court, whereby he can speedily recover the arrears of rent from Desmond and, if there is, what procedure should be followed; and
- (ii) he can terminate either or both leases and if he can, how he should proceed.

Advise Norman. (The possibility of protection by rent restriction legislation should be ignored).

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## **QUESTION 8**

In June 2012, Developers Ltd. (Developers) acquired a substantial property at Coffee Green, consisting of an old house, 5 acres of land, and a variety of outbuildings. The property is subject to rent restriction legislation. Developers have converted the ground floor of the house to provide 3 office units, one to be used by them, the other two to be let to firms of architects and insurers respectively.

The upper floor has been converted to provide 5 studio apartments, one of which is to be used by Developers to accommodate the caretaker of the premises and one other is retained by the architects to accommodate occasional visiting clients. Three of the 5 acres have been let on a 40-year building lease to Techomes Ltd. A small detached cottage on the grounds, subject to a tenancy at the time of sale, has been substantially improved and extended by arrangement with the tenants, who have been paying a standard rent of \$25,000 per month.

Developers consult you about their right or duty to have standard rents fixed on all these units and about any principles likely to be applied. They are also concerned about making a fair return on their capital.

Advise Developers.

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**END OF PAPER**