

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 2019

LANDLORD AND TENANT

(AUGUST 00, 2019)

Instructions to Students

- (a) Time: 3 ½ hours
- (b) Answer **FIVE** questions.
- (c) In answering any question, a candidate may reply, in accordance with the law of a Commonwealth Caribbean territory zoned for this school **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. Erasable pens are not allowed.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

RDD Limited (RDD) is the owner of a four-apartment building not subject to rent restriction legislation. In April 2018, RDD entered into written agreements with the following four persons:

- (i) Sydney, for a term of five years, to begin at a time to be determined by the parties;
- (ii) Harry, the caretaker of the apartment building, for the duration of his employment;
- (iii) Laura, a tenant from year to year, on condition that no other person is allowed to occupy the premises without the prior written consent of RDD; and
- (iv) Jammy, for the term of one year and so on from year to year until the said tenancy shall be determined by RDD and until it shall require the said apartment for the purposes of its own business undertaking.

Harry, Laura and Jammy took possession of their respective apartments on June 1, 2018, the commencement date of their leases. Last month (July 2019) RDD agreed to sell the entire building to New World Estates Limited, subject to RDD's obtaining vacant possession of all the apartments.

RDD now seeks your advice as to the above leases.

Advise RDD.

QUESTION 2

- (a) In April 2019, Paul Ennis agreed in writing to grant Lewis a ten-year lease of the "Old Cottage" to take effect from June 1, 2019. Due to an oversight on the part of Ennis's attorney-at-law, the lease was never executed. The written agreement provided *inter alia* that:

"the rent shall be the sum of \$120,000 per annum payable in advance (whether formally demanded or not)."

In May 2019, before Lewis had taken up possession of the premises, Ennis wrote to him requesting payment of the first year's rent but he (Lewis) did not comply.

On June 1, 2019, Lewis moved into the property and began paying a monthly rent of \$10,000, in arrears, which Ennis accepted. Lewis contends that he has a legal periodic yearly tenancy under which rent is payable in arrears.

Ennis has sought your advice.

Advise him.

- (b) Lara is the monthly tenant of a furnished apartment (not subject to rent restriction legislation), within a block of apartments owned by Ricardo. Last month, Ricardo wrote to Lara seeking an increase in rent. Lara wrote back saying she would not pay an additional cent over the current rent for the pile of junk she occupied. Ricardo was angered by this reply and wrote to her demanding that she vacate her apartment by 11 am the following day. Lara did not comply and went off to work, as usual, the following day.

When she got back home that afternoon, she found that Ricardo had changed the lock to her apartment and thrown all her possessions out in the corridor. She was therefore unable to enter the apartment and had to stay in a hotel, where she is still staying.

Lara has come to see you for advice.

Advise her.

QUESTION 3

Merl entered into a five-year lease with Leyton, the freehold owner of residential premises in Courtdale, an upscale gated community. Prior to signing the lease, Merl made it clear that she would be giving piano lessons, on the premises, in the evenings and on weekends. Leyton assured her that this would not pose a problem because he owned the adjoining premises.

Three months after she took possession, she often found it impossible to conduct piano lessons because of the activities of the occupants of the adjoining premises, who had been let those premises by Leyton, a few weeks after Merl moved in. The occupants use their house as a wedding centre for holding small ceremonies and receptions. The ceremonies regularly start as early as 6 am, and the receptions end as late as 3 am the following day. Preparations for the day's activities often commence at 4 am.

In addition, two mischievous children from another house in the community across from the one occupied by Merl keep turning off Merl's water, from the main in the garden.

Merl has repeatedly complained to Leyton about the noise which has continued unabated, and which affects her ability to host music lessons, and also disturbs her sleep. She has also reported to Leyton what the children have been doing.

Merl, who is at her "wits' end" wants to start looking for a new place this weekend, but before doing so, has come to you for advice on what to do.

Advise Merl.

QUESTION 4

By a lease made in January 2018, Lilly let a small two-bedroom townhouse to Terry for a term of five years. Rent restriction legislation does not apply. Terry lives in the house with her three teenaged sons. Since April of this year (2019), two of her nephews moved in with her when their mother, Terry's sister, moved to the United States of America (USA). Although Terry knows that the house is small and barely able to accommodate herself and her own sons, she agreed to take her nephews because her sister had no one else to leave them with until the end of the school year. They are set to join their mother in the USA at that time.

Terry has noticed that since she has had the five boys with her, the premises have started to fall into disrepair. Two of the kitchen cupboard doors have become unhinged because of how rough the boys are, the kitchen sink is always blocked and has to be cleared, and two rungs on the staircase have broken as a result of the boys racing up and down the staircase. Terry realizes that the disrepair has arisen because of the additional load on the house with its fixtures, and because of the boys' rough behaviour. She is comforted, however, in knowing that the lease provides for Lilly to keep the premises in repair, and that she (Terry) herself did not undertake any covenant to repair.

She recently telephoned Lilly to advise her of the various issues and asked her to fix them. Lilly has written to Terry in response, referencing their prior telephone conversation, but advising Terry that she is not responsible for fixing the problems which are caused by the conduct of "Terry and her invitees".

Terry is distressed and comes to you for advice.

Advise Terry.

QUESTION 5

In 2015, Lorna acquired the freehold of a shop in a plaza. The shop had been let on a 10-year lease in January 2013 for a rent of \$60,000 per annum, payable quarterly in advance. The lease contained, *inter alia*, covenants against assigning or subletting without consent. It also provided a right of forfeiture and re-entry exercisable on breach of any of the tenant's covenants, in the following terms:

"... provided that if the rent hereby reserved or any part thereof is at any time in arrears and unpaid for 21 days after it is due, whether legally demanded or not, or if there shall be any breach of any of the covenants on the part of the tenant contained herein, then it shall be lawful for the

landlord at any time thereafter to re-enter the demised premises and thereupon the term shall absolutely cease and determine."

Maurice was the original tenant of the shop which he ran as a pizza takeout.

In 2016, Maurice had asked Lorna for consent to assign the lease but Lorna took so long over the matter that the potential assignee found alternative premises.

In December 2018, Maurice found another assignee, Arielle, who had satisfactory references. Not wishing to risk any delay, Maurice assigned the lease to Arielle without getting Lorna's consent. No rent has been paid for either the quarter commencing January 1, 2019 or for the one commencing April 1, 2019.

Advise Maurice as to his rights (if any) in relation to the property.

QUESTION 6

On November 1, 2009, Violet granted a lease of her house to Roma for 10 years at an annual rent payable at the end of each year. The lease contained the following covenant:

"That the landlord will whenever requested to do so by the tenant grant her a lease of the demised premises for a further term of 10 years at the same rent and containing the same covenants and provisos as are herein contained provided that all covenants are duly performed and observed."

On June 1, 2017, Roma, with the consent of Violet, assigned her interest in the house to Ronald.

On February 11, 2019, Ronald wrote to Violet requesting a renewal of the lease, but by letter dated June 5, 2019, Violet informed Ronald that it was her intention to move back into the house at the end of his tenancy. Violet said that, in any event, the value of the premises has increased significantly, that houses in the scheme which are older than hers are now being let for twice the

rent agreed by Violet at the time of the lease in 2009, and so the rent payable for any renewed term would be twice the initial rent.

You are consulted by Ronald who would like to know whether he is entitled to a renewal of the lease and, if so, whether he could insist on the inclusion of the exact terms of the clause stated above. He has paid all the rent due to date.

- (i) Advise Ronald.
 - (ii) What would your answer be if the lease contained a covenant by the tenant to use the house for residential purposes only and since May 2018, Ronald has also been conducting his catering business from there?
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QUESTION 7

Brown, having been asked to go to Cayman on an assignment for his firm, arranged with his close friend, Black, to park (Brown's) car under a tree in Black's yard. The car had been recently acquired for \$200,000 by Brown, with the aid of a loan of \$50,000 from Black. It was agreed that Black could use the car freely while Brown was away.

When Brown returned two days ago, he discovered that the car had been seized the previous day by a bailiff on behalf of Black's landlord to whom Black was \$90,000 in arrears with his rent.

- (i) Advise Brown of any legal right he may have to recover his car.
- (ii) Assume that, acting promptly upon advice given in (i) above, the appropriate action has been taken. However, when Brown presents himself on Tuesday morning at 8, having spoken to the bailiff and having seen his car parked at nearby premises late on Monday evening, he is told that the car was sold about half an hour earlier for \$70,000 cash.

Advise Brown.

QUESTION 8

- (a) On December 1, 2010, Covers Limited (Covers), the landlord of a commercial premises at 10 Dunster Street, demised to Jason, as a quarterly tenant, a shop on the second floor and a storeroom on the ground floor of the building.

Rent restriction legislation applies.

On April 1, 2019, Covers gave Jason notice to quit in the following terms:

“Dear Jason, we the undersigned, Covers Limited, give you notice to quit and deliver up possession of the shop at 10 Dunster Street of which you are a tenant on the 31st July, 2019.”

Advise Jason.

- (b) On February 1, 2009, Andrew Agassi, the owner of a townhouse in Wallgreen Mews, demised it to Davis Brown on a monthly tenancy. Rent restriction legislation applies.

On June 10, 2019, Andrew gave Davis written notice to quit the premises because he had sold the premises and the sale is to close on August 30, 2019.

Davis has come to see you in relation to the notice he has received from Andrew. He wants to know his rights (if any) in the circumstances.

Advise Davis.

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