

COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 2011

LANDLORD AND TENANT

(TUESDAY, AUGUST 2, 2011)

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.

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PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

## QUESTION 1

Matland Limited, the owner of a four-apartment building, not subject to rent restriction legislation, has agreed with four persons to enter into the following lease agreements –

- (i) with Noel, for a term of 20 years, to begin at a time to be determined by the parties;
- (ii) with Aleem, the watchman of the apartment building, for the duration of his employment;
- (iii) with Melanie, a tenant from year to year, on condition that no other person is allowed to occupy the premises without the prior consent of Matland Limited;
- (iv) with Tammy, “for the term of one year and so on from year to year until they shall require the said premises for purposes of their own business undertaking.”

All four took possession of their respective premises on June 30, 2000, the commencement date of their leases. Matland Limited has agreed to sell the apartment building to Cross Limited subject to Matland Limited obtaining vacant possession of the premises.

Matland Limited now seeks your advice as to the above leases.

- (a) Advise Matland Limited.
  - (b) Draft a notice to quit to Melanie.
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## **QUESTION 2**

**Answer both (a) and (b).**

- (a) In November 2009, Marx agreed in writing to grant a ten-year lease of the Rose Cottage to Roberta, to take effect from January 1, 2010. Due to an oversight on the part of Marx's attorney-at-law the lease was never executed by the parties. 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 December 2009, before Roberta had taken up possession of the premises, Marx wrote to her requesting payment of the first year's rent but she did not comply.

On January 1, 2010, Roberta moved into the property and began paying a monthly rent of \$10,000 in arrears, which Marx accepted. Roberta now contends that she has a legal periodic yearly tenancy under which rent is payable in arrears.

Marx has sought your advice.

- (b) Marva 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 Marva seeking an increase in rent. Marva 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 Marva demanding that she vacate her apartment by 11:00 a.m. the following morning. Marva did not comply and instead went off to work.

When she got back home in the 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 an hotel where she is still living.

Marva has come to see you for advice.

Advise her.

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### **QUESTION 3**

In September 2010, Joanne leased premises to Jean for the purposes of operating a mini-zoo for one year, with an unrestricted option to renew if Jean desires.

Since November 2010, Joanne has leased the adjoining premises to Marge who uses it as a plant nursery, florist shop and part time residence. Marge has complained regularly to Joanne 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 Joanne –

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

#### QUESTION 4

Magnum Theatres Limited, in December 2010, became the lessees by assignment, of a theatre on Slipe Road, for the remainder of a twenty-one year lease which is due to determine in December 2015. After they had been in possession of the premises for three months, they discovered that the roof, which was made of wood shingles, was in a state of extreme disrepair and that the surface of the rear wall was severely eroded. Magnum immediately gave notice to the landlord, Realtors Limited, to carry out the repairs.

The lease contained a covenant by the lessees –

*“to keep the demised premises and the sanitary and water apparatus and all additions and improvements thereto in good and substantial repair and condition and properly decorated and in a state in every respect suitable for cinematography entertainment but nothing in this clause contained shall render the lessee liable for structural repairs of a substantial nature to the main walls, roof, foundation or main drains of the demised building.”*

Having made a further request to Realtors Limited to carry out the repairs, Magnum began to make arrangements for the wood shingles to be replaced by metal shingles and to replace the cement rendering on the eroded wall. Before the work began, workmen who were employed by Realtors Limited sought access to the premises to carry out repairs but were refused entry. Magnum thereafter carried out the repairs as planned and wrote to Realtors Limited claiming a refund of \$150,000.

Advise Realtors Limited, who also inform you that the state of disrepair of the roof was the result of persistent neglect by the lessees’ predecessors in title to carry out minor repairs.

## QUESTION 5

Hope rented a four-bedroom house in Shady Grove (not subject to rent restriction legislation) to Faith, for \$20,000 per month, to be used for residential purposes only and not to be sublet or assigned in whole or in part.

Six months later, Faith sublet all of the house, excluding one room, to Charity for \$25,000 per month. Charity then began conducting her beauty consulting services on the premises.

Hope is aware of the breaches and has complained to Faith but continues to collect rent from Faith.

Charity's business has so improved that she has made extensive modifications to the garage and added a new room to the house to be used as a waiting room. She has also cut down the trees in the garden and paved a part of the grounds for use as a parking lot. Hope, although aware of the modifications, has made no objection to Faith.

Four months after the construction was completed, Hope served the following notice on Faith and Charity jointly:

*"You are hereby given notice to quit and deliver up my house in Shady Grove as soon as you may legally be required to do so for breaches of covenants."*

Two weeks ago Hope began proceedings against Faith and Charity for recovery of possession and for breaches of covenants and waste.

Faith and Charity now seek your advice on their respective rights.

Advise them.

## **QUESTION 6**

Advise the following tenants as to the validity of the notices to quit in the following cases –

- (i) Brian occupies premises on a month to month basis, the rental period running from the 5<sup>th</sup> day of the month to the 5<sup>th</sup> of each succeeding month. On July 8, 2011, the Landlord, Home Developers Ltd, gave written notice to Brian to quit not later than September 8, 2011.
  
- (ii) Carl rented premises for a term of four years commencing January 1, 2007 and ending on December 31, 2010. Rent was payable quarterly in advance. Carl continued to occupy the premises after December 31, 2010 with the Landlord's consent and paid rent for each month after January 2011. The Landlord has now given written notice for Carl to quit at the end of August 2011.
  
- (iii) Dora, a monthly tenant of a three bedroom cottage, has been given notice by her landlord that she is "to quit and deliver up possession of the car port."
  
- (iv) Elvis, a tenant at will of one room in a dwelling house, has been given notice that he is to deliver up possession by August 15, "unless you are willing after that date to pay rent of \$8,000 monthly."

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## **QUESTION 7**

By a lease dated May 1, 2009, Lana let a dwelling house to Tessa for five years, at a monthly rent of \$1,000. In May 2010, Tessa sublet a room in the house to Suzan at a monthly rent of \$300. In September 2010, Tessa took in Cora as a lodger at a monthly rent of \$700.

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 8**

On May 16, 2009, Orvil granted a lease in writing of his dwelling house together with an annex to Manny, for five years, at an annual rent payable by monthly instalments in advance. The premises are subject to the provisions of rent restriction legislation.

By the lease Manny covenanted not to assign the premises or any part thereof without the landlord's consent. On November 9, 2009, Manny granted a weekly sub-tenancy of a room in the house to Arlene and on November 30, 2009, he assigned the annex to Boysie, in both cases without Orvil's consent.

On December 8, 2009, Manny by letter informed Orvil of the subletting to Arlene and the assignment to Boysie. Orvil replied stating that he would hold Manny responsible for the payment of the rent for the entire premises. Manny last paid rent on April 16, 2011.

Manny dies intestate on May 4, 2011. He is survived by his wife, Bella, who resided with him in the house and who continues to occupy the house and pay rent.

On July 5, 2011, Orvil informed Bella, Arlene and Boysie that he expected them to give up possession on August 15, 2011, now that Manny has died. They have informed Orvil however, that they will not be leaving as they are protected tenants.

Advise Orvil.

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