

COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 2018

LANDLORD AND TENANT

(AUGUST , 2018)

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 black or dark blue ink. Erasable pens are not allowed.

---

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

## **QUESTION 1**

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

- (a) Arlene is a first-year student at the National University. For the last two weeks she had been looking for a studio apartment in nearby residential areas, without any luck. She faced two problems with the properties she saw: either the rent was too high for her or the owners were unwilling to let to a student.

Finally, after trudging all day last Friday, she found a vacant apartment for a rental she could afford and for which her status as a student did not operate against her.

As requested by the owner, Lou, she paid one month's rent of \$25,000 and a security deposit of \$25,000. She paid both sums with a personal cheque.

It was agreed that Arlene would meet Lou at the apartment to receive the keys on the following Sunday, as she had to go out of town to collect her personal effects, and preferred not to have the keys until then. She would also receive the receipt for the sums paid, at that time.

On the Sunday afternoon, when she returned to the apartment to meet with Lou, she found it occupied by another student, Owen, who told her that he had rented it the day before (i.e. on the Saturday). Owen then gave Arlene an envelope from Lou, which contained the cheque she had given to Lou. She then asked Owen how much rent he had agreed to pay Lou, and he told her that it was \$40,000 per month.

Arlene has now sought your advice. Advise her.

- (b) On January 1, 2013, Marva entered into an agreement in writing with Lara, to lease Blueacre to Lara for the term of "three, five or seven years", at an annual rent of \$60,000, payable in advance in equal monthly instalments.

Lara used Blueacre for growing orchids and vegetables. On April 1, 2018, Lara served notice on Marva that she intended to quit on May 1, 2018, but on that date Lara, unable to find a suitable alternative property to continue her business, tendered the rent, which Marva accepted, as she subsequently did for June and July.

On July 10, 2018, Marva died, leaving the property to her niece, Angie, who now wishes to sell the property with vacant possession and seeks your advice.

Advise Angie.

---

## **QUESTION 2**

Mary, Louise and Jane, three law students, entered into an agreement with Lewis in August 2017 to occupy his house for their use during the 2017-2019 academic years. They each, on the same day, signed separate but identical documents headed "Licence Agreement". Each of the documents provides as follows:

- "1. The Owner grants to the Licensee 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 25 Main Street, St. Thomas, 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 two years from the 1<sup>st</sup> day of September 2017 to the 31<sup>st</sup> day of August 2019.*
- 2. The Licensee agrees with the Owner as follows:*
  - (1) to pay the sum of \$25,000 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 2017;*

- (2) not to damage or cause any damage to the walls or floor of the said house, or to the fixtures, furnishings, furniture or other effects therein;*
- (3) 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 Owner has granted or shall from time to time grant licences to use the said house in common with the Licensee, and not to impede the use by such other persons of the gas, electricity, water and telephone services supplied to the house, provided that each person will share the cost of such services;*
- (4) if at any time there are fewer than two persons authorized by the Owner to use the said house in common with the Licensee, upon reasonable notice given by the Owner, to meet with any prospective licensee nominated by the Owner at the house in order to provide an opportunity to such prospective licensee to agree terms for sharing the costs of services in accordance with clause 2 (3);*
- (5) not to assign this agreement nor permit any other person, except as licensed by the Owner to sleep or reside in or share occupation of the said house or any part of it at any time.*

3. *Provided as follows:*

- (1) *if the said sum or any part thereof shall be in arrear or unpaid for at least 14 days after the same shall have become due; or*
- (2) *in the event of any breach by the Licensee of the agreements herein contained*  
*then the Owner may by notice forthwith determine this agreement, without prejudice to any other remedy of the Owner.*

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

Last week, Mary, Louise and Jane were given one month’s notice to quit the house to take effect on August 31, 2018. They now seek your advice as to whether they are in occupation as tenants or licensees.

Advise them.

---

### **QUESTION 3**

Marie, who lived in Canada for many years, and was soon to retire, emailed her daughter Joy last year, telling her that she wanted to move back home to be near her (Joy) and her grandchildren. Still an active and independent person, Marie wants to find a place of her own rather than move into Joy’s home.

Marie asked Joy to find a suitable unfurnished townhouse for her, situated near to Joy’s home, and with all the modern amenities. Joy found a place she knew Marie would like, for a rental of \$1,200,000 per year, payable monthly. The house is in a small complex of eight houses owned by Gussie, one of which he occupies with his family.

Joy received a copy of the draft lease and sent it to her mother, who signed it at Easter, when she visited with Joy.

The lease is a very simple document and only provides for the term, which is for three years; a description of the premises; the rent to be paid and an option to determine by either party at any time upon giving six months' notice in writing to the other party. It states the commencement date as June 1, 2018.

During June, Marie returned home and began to occupy the premises. She soon discovered that –

1. The activities of the tenants of townhouses on either side of hers, can be clearly heard – the television, bedroom activities, the children playing and crying and so on.
2. Gussie, who occupies the townhouse directly in front of Marie's on the other side of the road, conducts piano lessons at the townhouse for adult students during weekday evenings between 6:00 pm and 10:00 pm, and on weekends, beginning at 8:30 am each day. Gussie, himself, plays between 10:00 pm and midnight on weekdays.
3. The water from the toilet to the master bedroom seeps into the bedroom whenever the toilet is flushed. Marie understands that this is the result of a design fault, and that all the townhouses in the complex have the same problem.
4. The townhouse is infested with cockroaches and rats, which come from the garbage skip in the complex.

Having discovered these problems, Marie wrote to Gussie, asking him to remedy the situation. He has failed to act, and the problems remain unresolved.

Marie feels she has no peace in her own home. To make matters worse, last week, as a result of the constant seepage of water into her bedroom, a part of the floor collapsed while Marie was standing on it, causing injury to her legs.

Marie has sought your advice.

Advise Marie.

---

#### **QUESTION 4**

Larry is the freehold owner of two flats in the same premises. He occupies Flat No. 1. On April 15, 2016, he let Flat No. 2 to Janel for three years. The lease included the following covenants:

*“The tenant shall use the premises in a tenant-like manner.”*

*“The landlord shall maintain and keep in good repair the demised premises, including drains, gutters and external pipes, fair wear and tear excepted.”*

During the passage of hurricane Gusty during September 2017, some of the gutters, along the roof above Flat No. 2, blew off and have not been replaced. As a result of this, water drips through a window into the living room of the Flat, and the window has expanded and now needs to be replaced.

Janel has also observed that under the window, and extending into the main area of the living room, a portion of the wooden floor, which was apparently repaired just prior to Janel’s occupancy, is again in a state of disrepair due to the dripping water. Last week Janel slipped on the floor, fell and fractured her arm.

Janel has raised the issues with Larry who claims that she is too miserable and that it is she who is in breach of her covenant to keep the premises in a tenant-like manner.

Janel wishes to sue Larry for breach of his repairing covenant.

- (i) Advise Janel as to her rights and liabilities.
  - (ii) Would your advice be different if the damage to the floor and window arose because Janel often forgot to close the living room window before going out of town, which she does from time to time, and rainwater blew in? Give reasons.
- 

### **QUESTION 5**

With the object of providing a home for himself and his family, James rented property comprising a dwelling house on a half-acre of land at 1000 Rainbow Avenue, in the upscale residential gated community of Poshville. The premises are subject to rent restriction legislation.

The lease was for a term of 20 years, commencing on August 1, 2010.

James was laid off from his job as chief accountant at Build Save, a small building contracting firm, in June, 2015, when the owner and operator of the firm retired and moved to the United States of America.

James was unsuccessful in finding a new accounting job, and on the recommendation of his wife, Fay, and their friends, James decided to make a business of his hobby of painting. He constructed a small shed behind the house which he used for the purposes of a studio and a small gallery, where his paintings were displayed for sale.

James's work was very highly regarded, and the business became so lucrative that he had to expand the shed to provide more gallery space.

Over the last year (2017), many of the other townhouses in Poshville changed hands and there are now several new families living in the community. The new occupants have begun to complain to James, and also to Stanley, James's landlord, about the numbers of



people coming and going to visit the gallery, and generally, James's commercial use of the premises.

Stanley has spoken to James and asked him to discontinue the use of the premises for commercial purposes. James responded by saying that he is free to use the premises for any purpose, so long as it is not unlawful, and that in any event, he has been using the premises for so long that Stanley cannot now complain.

Stanley comes to you for advice.

Advise Stanley.

---

### **QUESTION 6**

By a deed dated December 31, 2000, Nica granted a lease of a farm of which she was the owner in fee simple to Petrus for 20 years, commencing on January 1, 2001. The lease contained a covenant by the lessor that:

*"If the lessee at any time during the term hereby granted shall give to the lessor six months' notice in writing that he desires to purchase the reversion in fee simple in the demised premises the lessor shall upon the expiration of such notice and on payment of the sum of \$5,000,000 and all arrears of rent up to the expiration of such notice convey the demised premises to the lessee in fee simple free from all encumbrances".*

On August 7, 2009, Nica sold and conveyed the farm to Wren in fee simple, and on May 4, 2010, Petrus assigned his lease to John.

John now wishes to purchase the fee simple in the farm from Wren.

- (i) Advise John.

- (ii) What would your advice be if, instead of the above-mentioned covenant, the lease contained a covenant giving Petrus an option to renew the lease for a further term of 20 years only?
- 

### **QUESTION 7**

By lease dated November 1, 2013, Blue let a three-bedroom house to Rebecca for seven years at a monthly rent of \$40,000, payable in advance. Rebecca is a piano teacher and converted one of the bedrooms into a piano studio. Rebecca last paid rent on May 1, 2018.

On August 1, 2018, at about 3:00 p.m., Blue accompanied by Rambo, his bailiff/sheriff, entered the house through the front door which had been left slightly ajar. They told Rebecca, who was at the time teaching a young student, that they were there to seize her goods since she was not paying her rent.

Rambo walked over to the piano where the student was sitting and shouted "Move, boy" and pushed the baby grand piano in the direction of the door. He told Rebecca that he was seizing it. He also seized the money that Rebecca received from her students for their lessons, which had been thrown loosely on a counter in the kitchen, and a DVD player, a TV and a digital camera from the living room. He placed all the items by the door.

Rambo then kicked down a locked door to an adjoining bedroom and seized the jewellery on the dressing table. That jewellery actually belonged to Rebecca's niece, Amber, who was visiting for the holidays.

Rambo packed all the seized items into his truck and drove off. Despite Rebecca's questioning, Rambo refused to answer her questions about where he was taking the goods. She is especially worried about her baby grand piano which is valued at over \$160,000.

Advise Rebecca and Amber on:

- (i) the validity of the distress; and
  - (ii) the remedies, if any, which may be available to them.
- 

### **QUESTION 8**

Miss Alicia Diaz has come to see you. She tells you that yesterday afternoon when she returned to her rented apartment, having been away on holiday, she found the door locks changed. On looking inside through a window she observed that all her furniture had been removed. She then went next door to tell her neighbour what had happened. Her neighbour informed her that her landlord had changed all the locks and sold her furniture to a second-hand furniture dealer, saying that Alicia had abandoned the apartment and, at any rate, he needed it for his own use and occupation.

Alicia further tells you that she is a monthly tenant and that her landlord, Carlos Brown, had from time to time made advances towards her which she repeatedly repelled. Recently, he had become more aggressive, so she decided to take her vacation leave and go overseas for two months. She also paid the rent for the period she would be away so as to ensure that he would have no grounds on which to terminate her tenancy. The apartment is subject to rent restriction legislation.

Alicia now seeks your advice.

(i) Advise Alicia.

(ii) Would your answer to (i) be any different if Alicia had not paid rent for the last two months and was therefore in arrears? Give reasons.

---

**END OF PAPER**