

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 2023

LANDLORD AND TENANT
(MONDAY, JULY 31, 2023)

Instructions to Students

- (a) Time: **3 ½ hours**
- (b) Answer **ALL** 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

- (a) In May, 2022, Lorne and Troy orally agreed that Lorne would give Troy the right to occupy his apartment, known as Unit 1, Abbeyvale Terrace, in the parish/district of St. Kristopher, for the sum of \$50,000 per month. They agreed a term of five years commencing on July 25, 2023.

Troy did not like the tiles in the main bedroom and the adjoining bathroom, nor the ceramic tile finish of the kitchen counter tops. He did not like the colour of the interior walls, nor the curtains in the bedrooms and the living room.

Lorne agreed that Troy could change the tiles in the main bedroom and bathroom, replace the kitchen counter tops, repaint the inside of the house, and change the curtains, to suit Troy's liking, but at Troy's own cost, and without any right to recover the cost thereof at the end of the term. Troy agreed to this because he and his family were planning to make the place their home for the agreed five-year term.

Lorne agreed to give Troy access, daily, for the purpose of effecting the renovation work, which he did. The work was completed on July 5, 2023, and Troy and his family were preparing to move in on July 25, 2023 as planned. Troy was pleased that the work was completed in advance of the commencement of the term, because this meant he could move straight into the house on July 25, 2023, without having to secure alternative accommodation. Troy had been living with his family in premises they had been renting from Rory, and their lease was due to expire on July 25, 2023, the day on which he was to take possession from Lorne.

However, Troy had received a phone call from Lorne on July 12, 2023 in which Lorne told him that he (Lorne) no longer wanted to rent the house to him. He told Troy to provide him (Lorne) with an account of his (Troy's) expenditure on the renovations, so that he (Lorne) could reimburse Troy those costs.

Troy wants to know if he can compel Lorne to give him possession of the house for the five-year period they orally agreed.

Advise Troy, giving reasons.

- (b) Jeff is the owner of several commercial properties, which he rents to others. He has come to see you because of some problems he is having with one of his tenants, Mutt. Jeff's instructions to you are as set out below.

Mutt and Jeff entered into a monthly periodic lease of Jeff's commercial building at 1 Industrial Boulevard, in the parish of St. Lucy, commencing on January 1, 2022. They executed the lease as a deed, in advance of the commencement date, and Jeff gave Mutt possession of the premises on January 1, 2022 as agreed.

The lease provides for Mutt to pay Jeff, rent, in the sum of \$50,000 per month. The rent is due on the first of each month. Mutt and Jeff enjoyed a good relationship for several months, but as from April 2023, Mutt has failed to pay rent, and he is now several months in arrears. Jeff has visited Mutt at the premises on several occasions. On each occasion, he demanded the rent in arrears both verbally and in writing.

Frustrated with Mutt's failure to pay the arrears of rent, Jeff decided to take action. Knowing that Mutt would not be at the premises two Sundays ago, Jeff and his locksmith went to the premises and changed the locks on the front and rear access doors to the building and, in addition, chained the front door, using a large chain and padlock.

Jeff received a telephone call from Mutt the following Monday, when Mutt, having arrived at the premises, was unable to gain access. Mutt threatened to sue Jeff for breach of his right to possession of the premises under the lease. Jeff told Mutt that he could go ahead to sue him since it is he (Mutt) who is in breach of the terms of the lease by his failure to pay several months' rent; and that he will not allow Mutt to retake possession of the premises, unless and until the arrears were paid. Further, that, if Mutt does not settle the arrears within seven days, he will provide Mutt with supervised access to the premises to clear out his (Mutt's) belongings. This would be without prejudice to Jeff's right to commence proceedings against Mutt for the outstanding rent.

Jeff has not seen or heard from Mutt at all since then. He had expected that Mutt would have come to negotiate a payment plan for the arrears and the right to be put back into possession of the premises.

Jeff is concerned about Mutt's silence and has come to see you.

Rent restriction legislation does not apply to the premises.

Advise Jeff, giving reasons, on:

- (i) whether his actions were lawful;
- (ii) whether he has any liability to Mutt for his (Jeff's) conduct; and
- (iii) the action(s) he is entitled to take to recover the rent.

QUESTION 2

In October 2023, Miser granted Tony, your client, a seven-year lease of a small two-bedroom single-storey house at a rental of \$30,000 per month. Tony occupies the house with Sean, his younger brother.

Tony's instructions are as set out below.

The terms of Tony's lease include the following:

LEASE

...

The tenant shall –

1.1 pay the rent, monthly, in the sum of \$30,000 per month, into the landlord's account named in the Schedule, and on the days set out there. Receipt of the first month's rent is hereby acknowledged.

1.2 pay a security deposit in the sum of \$60,000 on or before the commencement of the lease. The deposit will be returned to the tenant, in full, at the end of lease, subject to deductions for unpaid rent and any expense(s) associated with the tenant's breach of any of his obligations at the end of the lease. Receipt of the security deposit is hereby acknowledged.

1.3 not assign or sublet the premises without the prior written consent of the landlord.

...

The landlord shall –

...

2.2 keep the premises in good repair.

...

Tony and Sean are college students who play rugby for their college and national teams. They often throw a ball around inside of the house and generally engage in horseplay with each other. As a result they have broken a drywall partition which separates the dining area from the living area, and have smashed a number of windows.

In addition, about a month ago, following a freak storm, Tony noticed that the roof had begun to lift in the area over the kitchen, and the living and dining rooms. Over the last two weeks, there has been leaking in the kitchen.

Tony notified Miser about all the necessary repairs. Following this, and with Tony's consent, Miser inspected the house, accompanied by his contractor, in keeping with a provision in the lease which provides for this. A few days after the visit, Miser received a quotation for the requisite work, which he has passed to Tony. The covering letter sent with the quotation demands that Tony effect the necessary repairs within 30 days from the date of the letter, failing which he (Miser) will arrange for the repairs to be done and send the bill to Tony.

Tony finds it incredible that Miser is saying that he (Tony) is responsible for the repairs, given the inclusion of clause 2.2 in their lease.

In addition to his concern about the repairs, Tony says that he wants to recover the \$60,000 deposit he paid to Miser at the commencement of the lease. Tony's girlfriend, who is a law student, told him (Tony) recently, that it is unlawful for a landlord to take a security deposit from his tenant, and that Tony is entitled to immediately recover the \$60,000 he paid as a security deposit. Tony wants the money now, to assist with paying the costs of a five-day trip to Martinique being planned by his French class.

Finally, Tony says Sean is planning to move to one of the rural parishes/districts to take up a three-month internship and so Tony wants to rent Sean's room to someone in the meantime.

Rent restriction legislation applies to the house.

Tony seeks your advice as to the following. Advise him, giving reasons.

- (i) Who is liable for the repairs to the drywall and windows, and the roof?
- (ii) Whether Tony is entitled to immediately recover the security deposit from Miser.
- (iii) Whether Tony can rent out Sean's room for the three-month period Sean intends to be away from the house.

QUESTION 3

Linda owns three bungalows in the community of Brookside.

Linda occupies House 1, and rents Houses 2 and 3 to Daniel and Harry, respectively, on monthly tenancies. Daniel's tenancy began on March 1, 2022, and Harry's tenancy began on May 10, 2018.

Linda has been suffering at the hands of both Daniel and Harry over the last few months, and seeks your advice.

Her instructions are set out below.

Both leases were properly drafted by the attorney-at-law acting for her at the time of letting.

The leases include the following provisions:

LEASE

...

The tenant shall-

2.1 pay rent in the amount and on the day of each month set out in the Schedule below, into the landlord's bank account more fully described in the Schedule;

...

2.4 not assign the premises, or sublet all or part of the premises without the prior written consent of the landlord;

2.5 use the premises for the purposes of a private single-family dwelling only not use or cause or permit the premises to be used for commercial purposes or in a manner as to cause a nuisance or annoyance to adjoining occupiers;

...

It has come to Linda's attention that Daniel is offering House 2 as accommodation on the popular website, CyberBnB. The information she has received is that the listing for the House provides for the guest to occupy the House exclusively during the stay. Daniel moves out of the House when his guests arrive. She is concerned that not only is Daniel earning money from the House, but that since he is not occupying with the guest(s) he is unable to control their care and use of the House.

Harry did not pay rent as due on July 10, 2023. Harry had always paid his rent on time and in full, so Linda did not initially make a fuss. However, she noticed that she hadn't seen Harry in the neighbourhood for several days and when she tried telephoning him, her calls went unanswered.

In addition, she noticed a young man and woman coming and going from House 3 over the last 10 days or so. Since then, every night there was loud music coming from House 3, and cars were parked along the road, very often blocking the driveway of several of the residents in the community, forcing them to have to park some distance away, and walk home.

Yesterday, she knocked on the door to House 3, and was greeted by the young man, whose name she learned was George. George is a long-time friend of Harry's. He told Linda that Harry had been transferred by his employer to the rural parish of St. Augustine and no longer needed House 3. He also told her that Harry had transferred the lease to him (George) in proper form, as of July 10, 2023. George told Linda that he (George) was responsible for the rent for July and had been waiting to recover the security deposit from his former landlord to be able to pay the rent due to Linda. George said that he had planned to introduce himself to her (Linda) as Linda's new tenant once he had the rent for July in hand. He told her that he expected to be able to pay her by the end of the week, and that going forward, the rent would be paid on time.

Linda is concerned that she does not know anything about George or his wife, and is not happy about their very loud, nightly entertaining, and to the inconvenience she and the other residents have had with parking. She is adamant that she entered into a lease with Harry, not George, and refuses to accept George as her tenant. She wants to immediately collect the overdue rent for July, and for George and his wife to vacate the premises.

Linda seeks your advice on the following. You must give reasons for your advice.

- (i) What is the nature of the relationship between Daniel and his guests, and whether Linda has any action against Daniel for his use of the House 2 by paid guests?
- (ii) What options are available to her to immediately collect the rent from Harry, and whether she can compel George and his wife to vacate House 3?

END OF PAPER