

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
FIRST YEAR EXAMINATIONS, 2000

LANDLORD AND TENANT
(Friday, May 26, 2000)

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.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

Lowell, a lecturer in Law at the College of Higher Education, opts to find his own accommodation which is at Seaview Heights and accepts a housing allowance of 30% of his salary each month rather than to occupy accommodation provided on the College campus which would cost him 10% of his salary each month.

Since September 1999, having found his own accommodation he has let a room and bathroom along with the right to use the kitchen and laundry to a student, Tricia, who pays him \$5,000 per month which includes the cost of electricity, water and telephone services. Tricia also undertakes to baby-sit for Lowell's two-year old son when himself and his wife go out in the evenings and on each occasion that he does so, she is given a \$300 rebate on the rent for the month.

To comply with the usual formalities required by the College, the property at Seaview Heights is let by the owner, Orville, to the College on an annual basis from August 30 of each year and the College then sublets to Lowell on a monthly basis.

In March of this year (2000), Lowell terminated his contract with the College and left the country. Tricia however remained in occupation of her facilities.

Last month the College wrote a letter to her threatening to evict her and claiming that she is a mere trespasser and that the premises are required for occupation by another lecturer on June 1.

Tricia is very anxious to remain in occupation since she has to take her final examination between June and July 2000 and has neither the time nor the financial resources to find other accommodation at the end of the academic year.

Advise Tricia.

QUESTION 2

Your client, Marcia Millwood, recently inherited an apartment which is part of a condominium/strata complex. The apartment was owned and occupied by her grandmother. She has no desire to occupy the apartment nor to sell it but instead wishes to let it.

Not having had any previous knowledge of condominium/strata complexes however, she wishes advice on the legal considerations that she should be aware of in letting the apartment.

Advise her.

QUESTION 3

Your clients, Damion and Dorothy Tipps, came to see you just before Christmas 1999. They informed you that in October 1999 they leased cottage #2

at 19 Bay View Road. This cottage is part of a small complex consisting of six cottages all tenanted and all owned by Larry Law. They further tell you that on November 5, 1999, the new tenants in cottage #3 which is beside theirs, Bigga and Betsy Tough, put up Christmas decorations on the lawn and cottage which have created great inconvenience for them.

On the admission of Bigga, there are ten thousand lights covering the entire cottage, as well as a manger scene, Santa Claus and the reindeers and Santa's workshop on the lawn. These lights are turned on every evening by six and remain on all night. As a result, their bedroom and living room are flooded with lights all night, some of which blink on and off. They are therefore unable to sleep at night and this has begun to affect their work and well being. In addition, persons on foot and in cars attracted to the lights have been invading the compound in large numbers often making ingress and egress difficult.

When they spoke to Bigga requesting some modification in the hours that the lights were kept on, he told them that in Miami, from where they have just returned, most of the houses were decorated like theirs and lit for the same periods of time. Further he intends to have even more lights come next year Christmas.

Your clients are of the view that their landlord, Larry Law, may be in breach of his covenant for quiet enjoyment and have therefore sought your advice.

Advise them.

QUESTION 4

In 1998, Simone leased, for seven years, residential premises from Jason. The premises are not subject to rent restriction legislation. The premises were located in an exclusive residential area and she covenanted, inter alia, to use the premises for residential purposes only. The house is set in a beautiful landscaped garden.

Soon after she went into possession, Simone permitted her sister to hold her wedding reception at the premises. The reception went off very well due in part it was said, to the wonderful facilities in the house and the garden.

A number of persons at the reception approached Simone with the possibility of their holding wedding receptions and dinner parties at the house for a small fee. Simone agreed mainly because she had lost her job a year ago and was experiencing financial pressures, including her high rental.

Thereafter, functions were regularly held on weekends, often involving hundreds of persons.

Last week Simone came to see you. She tells you that recently large cracks had appeared in the concrete flooring and columns of the front balcony and that she had informed the landlord of this disrepair three months ago and reminded him of his repairing covenant in the lease which states as follows:-

"The landlord covenants to carry out all structural repairs to walls, ceilings, roof and floors of the demised premises."

Jason's response, however, was that she was in breach of her covenants with respect to user and to use the premises in a tenant-like manner and that the reason why the cracks had appeared was because large numbers of persons

were often on the balcony which was not designed to accommodate such numbers. He therefore had no intention of carrying out any repairs and was in fact considering bringing an action against her for breaches of covenant.

Simone's response to this was that other residents in the neighbourhood regularly entertained large numbers of guests so she was doing nothing out of the ordinary and these functions did not disturb other residents. Furthermore, had Jason insured the premises (even though not required by the lease to do so), he would have been able to make a claim against the insurers for the repairs to be done.

In the circumstances, Simone has sought your advice.

Advise her.

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 for \$25,000 per month, to Charity, who immediately began conducting her beauty consulting services on the premises.

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

Charity's business so improves that she made extensive modifications to the garage and constructed a new room unto the house to be used as a waiting room. She 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, made no objection to Faith.

Four months after the construction was completed, Hope served the following notice to 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 later 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

In April 1998, Jonathon by deed leased a commercial building to Peter for a period of seven years at a rent of \$300,000 per annum payable quarterly.

The lease contained the following clauses:-

- (i) the tenant if he so desires might at anytime during the term purchase the freehold reversion for \$5,000,000 on giving the landlord six months notice in writing of such desire;

- (ii) not to use the property for purposes other than a supermarket;
- (iii) to erect a concrete wall on three sides of the demised premises within six months from the commencement of the term hereby granted.

The lease also contained a proviso for forfeiture and re-entry for non-payment of rent and any other breaches of covenant.

In January 1999, Peter assigned the lease to Charles who nine months later sublet to Annette for the remainder of the term less one day. After the assignment to Charles, Jonathon conveyed his reversion to Sammy who has now discovered that:

- (a) the rent is two months in arrears;
- (b) Annette has started to operate a club in the building;
- (c) that Charles would like to exercise the option in clause 1 of the lease;
- (d) the wall has not been constructed.

Advise Sammy who wishes to forfeit and re-enter the premises.

QUESTION 7

In November 1998, Trevor rented a house from Lester on a monthly tenancy. The rent of \$10,000 was payable on the 28th of each month. Since November 1999, however Trevor has paid no rent and so on January 28, 2000, Lester served Trevor with notice to quit effective February 28, 2000 for non-payment of rent. But Trevor continued to occupy the house and on April 28, Lester brought an action for recovery of possession and rent due.

Trevor, however, before the action came for trial moved all his possessions to Mary's house and went to live with relatives in Bayport.

On May 5, Lester instructed a bailiff to levy distress of \$60,000 for arrears of rent on Trevor's goods. The bailiff forcibly entered Mary's house and impounded a television set, a lap-top computer and a washing machine which compared with the description Lester had given him. The following day Mary sent these items to Trevor in Bayport.

Advise Lester as to what steps, if any, he should take to recover the goods and as to any other remedies which are available to him to recover the rent in arrears and any costs incurred in levying the distress.

QUESTION 8

Ken owns three properties which are subject to rent restriction legislation. The properties are known as numbers 1, 3 and 5 Buttercup Drive. No. 1 is a two-bedroom two-storey house which is presently unoccupied. No. 3, a one-bedroom apartment, is let to Meg at a rental of \$6,800 per month. No. 5 is a four-bedroom house, and is let to an elderly couple, Mr. and Mrs. Youngblood, who have been living there for ten years.

With regard to No. 3, it appears to Ken from the number of different motor cars and Ninja bikes seen at the gate daily, that the apartment is being used for immoral purposes.

With regard to No. 5, Ken has decided that he would like to live in it along with his wife and three children.

(i) What steps should Ken take with a view to obtaining possession of No. 5? Is he likely to succeed?

(ii) Ken intends, whenever Meg is not at home to enter with workmen and place Meg's possessions on the lawn and bolt up the doors to the apartment.

Advise Ken on this course of action.

(iii) Ken intends to lease No. 1 and has sought your advice as to the procedure to be followed in determining the rent.

Advise him.