



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 10 – LANDLORD AND TENANT LAW*

Time allowed: 3 hours plus 15 minutes' reading time

Instructions to Candidates

- You have **FIFTEEN** minutes to read through this question paper before the start of the examination.
- **It is strongly recommended that you use the reading time to read this question paper fully.** However, you may make notes on this question paper or in your answer booklet during this time, if you wish.
- **All questions carry 25 marks. Answer FOUR only of the following EIGHT questions. This question paper is divided into TWO sections. You MUST answer at least ONE question from Section A and at least ONE question from Section B.**
- Write in full sentences – a yes or no answer will earn no marks.
- Candidates must comply with the CILEX Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

Information for Candidates

- The mark allocation for each question and part-question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ballpoint pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

Do not turn over this page until instructed by the Invigilator.

* This unit is a component of the following CILEX qualifications: **LEVEL 6 CERTIFICATE IN LAW and the LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE**

SECTION A

(Answer at least one question from this section)

1. Critically analyse whether the security of tenure provisions in Part II of the Landlord and Tenant Act 1954 strike a fair balance between the interests of landlords and tenants.

(25 marks)

2. Discuss the scope and effect of the obligations that are implied into a lease by common law.

(25 marks)

3. Critically analyse:

(a) the common law meaning of repair;

(16 marks)

(b) the provisions of the Landlord and Tenant Act 1985 in relation to repair.

(9 marks)

(Total: 25 marks)

4. 'It has long been recognised that leasehold, whilst it suits some, has many drawbacks for long-term residential occupiers in England and Wales.'

[Commonhold and Leasehold Reform Draft Bill and Consultation Paper No. 4843 (2000)]

In the light of this statement, critically consider the extent to which these drawbacks are mitigated in relation to flats by the right of collective enfranchisement and the right to manage.

(25 marks)

SECTION B
(Answer at least one question from this section)

Question 1

Kempston Properties PLC (KPP) is the freehold owner of a terrace of Georgian properties, all of which were originally constructed as private dwellings. However, over the years all the properties have been converted to a variety of commercial uses.

One of the properties (No. 4) is let on a 125-year lease to Acorn Antiques Limited (AAL). AAL uses the property as a showroom, with antiques and collectibles arranged over the four floors of the property.

AAL has recently obtained planning permission to convert No. 4 back to residential use. AAL's lease contains covenants that it will:

- 'not make any alterations to the Premises except with the Landlord's consent'; and
- 'not use the Premises other than for the display and sale of antiques, collectibles and similar goods except with the Landlord's consent (which is not to be unreasonably withheld)'.

Last week, AAL submitted a written request to KPP for consent to change the use of No. 4 to 'use as a single private dwelling' and to carry out non-structural works to the property in order to convert it to residential use.

KPP wishes to resist this request on the ground that it fears that if the property is used as a dwelling, this will provide AAL with an opportunity to acquire the freehold of the property by enfranchisement under the Leasehold Reform Act 1967.

Advise KPP as to its prospects of successfully refusing consent.

(25 marks)

Turn over

Question 2

On 24 June 1993, Xander granted Yasmina a lease of a hairdressing and tanning salon for a term of 25 years. The lease contained the following tenant covenants (among others):

1. 'to pay the rent quarterly on the usual quarter days during the Term';
2. 'to put and keep the Premises in good and substantial repair and condition during the Term';
3. 'to deliver up the Premises at the end of the Term in conformity with the tenant covenants in this Lease'.

In 2008, Yasmina decided to retire. She sold the salon business to Zaeem and (with Xander's consent) assigned the lease of the salon to Zaeem.

Zaeem vacated the premises when the lease ended on 23 June 2018. At that time, he still owed Xander rent for the last six months of the tenancy. Xander inspected the premises shortly after Zaeem had left and found that they were in a poor state of repair. He also found a number of valuable items that Zaeem had left behind, including a tanning booth, a sunbed and some wall-mounted hair dryers.

On 30 June 2018, Xander wrote separately to Yasmina and Zaeem, saying that he was holding them each responsible for the cost of repairing the premises and for paying the rent arrears. Xander's letter to Zaeem was returned by Royal Mail marked 'gone away', but Yasmina replied to say: 'I do not accept that I have any liability to you: when I left the premises, they were properly repaired and I had paid my rent in full'.

Xander has now consulted you about the matter. Advise him as to his potential remedies against:

(a) Yasmina;

(13 marks)

(b) Zaeem.

(12 marks)

(Total: 25 marks)

Question 3

Adam is the landlord of a row of three tenanted cottages (The Blandings) in an up-and-coming London suburb. Two weeks ago, Adam received a very substantial offer for the cottages from a developer, Gideon, who intends to demolish them and to build a substantial, multi-million-pound mansion on the cleared site. Adam decided that he therefore needed to obtain vacant possession of the cottages as soon as possible.

In January 2016, Adam had let No. 1 The Blandings to Benjamin on an assured shorthold tenancy (AST) for an initial term of one year. Benjamin remained in occupation after the initial term expired. Six months ago, Benjamin paid Adam a full year's rent in advance and told Adam that he was going to a Buddhist retreat in Thailand in order to 'find himself' and wasn't sure when he would be back. Adam has not heard from Benjamin since that conversation. Immediately after receiving Gideon's offer, Adam entered the property, threw out Benjamin's belongings and changed the locks. Adam then sold the property to Gideon for a third of the amount that he had been offered for all three cottages, and Gideon was registered at the Land Registry as the proprietor of the property. Last week, Benjamin returned home, but Gideon has refused to let him back into the cottage.

In March 2017, Adam had let No. 2 The Blandings to Caleb on an AST for an original fixed term of six months. Caleb has lived at No. 2 The Blandings ever since. When Caleb first moved in, he paid a deposit to Adam. Caleb asked what would happen to his deposit, to which Adam replied: 'Don't worry, it will be quite safe with me'. Caleb has heard nothing more about his deposit since then. Immediately after receiving Gideon's offer, Adam served a section 21 notice on Caleb, giving him two months' notice to quit. In fact, Caleb wishes to continue to live at No. 2 The Blandings and has refused to move out when the notice expires.

Four months ago, Adam had let No. 3 The Blandings to Daniel on an AST for an original fixed term of 12 months. Immediately after receiving Gideon's offer, Adam served a section 21 notice on Daniel, giving him two months' notice to quit.

Advise Benjamin, Caleb and Daniel as to their rights against Adam.

Note: do not consider any issues relating to actual possession or title when answering this question.

(25 marks)

Turn over

Question 4

Tom is the freehold owner of a dairy farm. In March 2018, his son, Joe, said that he and his partner, Yaya, would like to see if they could establish a business making ice cream and yoghurt in one of the disused outbuildings on the farm. They hoped to sell their produce over the coming summer to local shops and at local markets, fairs, etc.

Tom agreed to this proposal. Over the following few weeks, Joe and Yaya paid for the outbuilding to be renovated, so as to bring it up to the relevant food hygiene standards, and they also hired the equipment needed to make the ice cream and yoghurt. Conscious of how much they were spending, Joe and Yaya asked Tom how long they could have the outbuilding, to which Tom replied: 'Let's not get carried away just yet. We'll see how the next few months go and if everything turns out as we hope, then we can all sit down and put something on paper.' Joe and Yaya agreed.

In order to protect the secrecy of some of their recipes, as well as to comply with the requirements of the local food standards authority, Joe and Yaya fitted the outbuilding with new locks, to which they had the only keys. Joe and Yaya locked the outbuilding every night.

The business was a great success. Unfortunately, Joe and Yaya's relationship ended last month, when Joe forgot to buy Yaya a cake for his birthday. Joe has gone travelling around the world to get over his distress at their break-up, but Yaya wishes to carry on with the business. Tom is opposed to this and has told Yaya that he 'has no right' to continue to use the outbuilding and wants him to 'get off my farm' immediately.

Advise Yaya.

Note: do not consider any issues under the Landlord and Tenant Act 1954 when answering this question.

(25 marks)

End of Examination Paper

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