

**UNIVERSITY OF BOLTON**

**SCHOOL OF ENGINEERING**

**BSc(HONS) IN BUILDING SURVEYING & PROPERTY  
MANAGEMENT**

**SEMESTER ONE EXAMINATION 2018/2019**

**FACILITIES MANAGEMENT AND PROPERTY LAW**

**MODULE NO: CAS6001**

Date: Monday 14<sup>th</sup> January 2019

Time: 14:00 – 16:00

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**INSTRUCTIONS TO CANDIDATES:**

There are **FOUR** questions.

Answer **ANY THREE** questions.

All questions carry equal marks.

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**QUESTION 1**

- (a) The Combination Boiler in David's rented three bedroom flat in Bury stopped working three months ago, so he has not had hot water or central heating. His only source of heating in the house is the electric fire in the front room. He contacted his Landlord, Joseph who said that this had happened before. Joseph advised that he should top up the boiler's water pressure through a small tap below the boiler. David could not find this tap anywhere and had to call him back. Joseph then said he was not prepared to pay a plumber to come out for such a small task and said he would come over the following day. Five days later he turned up saying he had got something in his eye and had to go to the hospital and could not drive. Meanwhile, David had had no heating and no hot water for almost a week during one of the coldest parts of the year.

What are the legal issues involved here and can David refuse to pay his rent for those five days or pay a reduced rent, or even end his tenancy early?

**(13 marks)**

- (b) David's oven has stopped working; a truck reversed and knocked over the front wall and the flat has recently been plagued with damp patches. David contacted Joseph for the repairs and he says, "*that there is nothing more he could do as he has already spent huge sums of monies on the flat*". David now wishes to vacate the flat at the end of the month but is concerned that he may not get his deposit back. Advise David on his rights.

**(12 marks)**

**Total 25 marks**

**QUESTION 2**

Benjamin owns a former mansion house, which he lets out as four residential apartments. Each apartment is let along with a parking space in an adjacent converted stable block. Benjamin decided that substantial renovation and improvement work to the mansion house be required, including replacement of the entire roof, sandblasting the exterior walls, and re-wiring and re-plumbing the property.

Two weeks ago, and without any prior notice to the tenants of the apartments, Benjamin's workers arrived on site and began the works. As a result:

- a) The property is now surrounded by scaffolding (apart from a gap which allows access to the front door of the mansion house), and the scaffolding has been covered with protective sheeting – as a result, no natural sunlight enters any of the apartments during the day;

**(6 marks)**

**Question 2 continues over the page....**

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**Question 2 continued....**

- b) The driveway which connects the mansion house to the highway has been churned up by the vans and diggers used by the workmen, and it is now impassable with vehicles – Noah’s car is ‘marooned’ in the stable block; **(6 marks)**
- c) The workmen arrive at 7.30 am – this is a great disturbance to Mason, who works night shifts; **(6 marks)**
- d) One of the diggers inadvertently cut through the underground fibre optic cable, which provides internet access to the apartments and because of this, Elijah who works from home, has lost a substantial amount of business. **(7 marks)**

The tenants have complained to Benjamin. However, he has told them there is nothing he can do because the workers are independent. He has also told the tenants that the works may take another three months to complete.

Advise the tenants as to their possible rights against Benjamin.

**Total 25 marks**

**QUESTION 3**

Abigail owns a property, which she lets to Sophia for use as a hair salon. The lease:

- i) Prohibits assignment or alteration of the premises by the tenant without the landlord’s prior consent in writing;
- ii) Entitles the landlord to forfeit the lease in the event of the tenant’s breach of covenant.

Abigail recently visited Sophia to discuss why Sophia had not paid the last quarter’s rent. During that visit, Sophia said that she could no longer make profit operating the hair salon and wanted to sell the business (including the lease) to a friend, Isabella. Sophia asked whether Abigail would agree to this. Abigail said that in principle, she would not oppose a sale, but she would get her lawyers to get in contact with Sophia to discuss ‘the formalities’.

Abigail then went on holiday for two weeks. A few days after her return, she went to the hair salon to discuss Sophia’s continued non-payment of the rent. However, she discovered that Sophia had closed her business and had allowed Isabella into the occupation of the property. Also, Isabella had removed the hair salon fixtures and was now using the property as a games shop. Isabella handed Abigail a cheque for the unpaid last quarter’s rent owed by Sophia. Abigail told Isabella that she had not agreed to any of this and would be consulting her lawyers.

**Question 3 continues over the page....**

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**Question 3 continued.....**

The next day, Abigail received a letter from lawyers acting for Isabella. That letter alleged that Isabella was the lawful tenant of the property by an assignment from Sophia. Abigail has not yet banked the cheque given to her by Isabella. Advise Abigail as to:

- a) Whether there has been a lawful assignment; **(12 marks)**
- b) Her rights against Sophia and Isabella. **(13 marks)**

**Total 25 marks**

**QUESTION 4**

Shopocus Retails plc took a commercial lease from Realtegitic Properties Ltd. for their brand new outlet at Deane Retail Park, Bolton. Shopocus Retails fitted out and modelled it in the chain's colours and character. They operated for three years making losses, however, by the fourth year there was turnaround in their fortunes and they started breaking even. Shopocus Retails plc approached Realtegitic Properties for renewal of their commercial lease; however, Realtegitic is very reluctant in acceding the fact the tenancy has expired.

Advise Shopocus Retails plc and critically evaluate the extent to which Part II of the Landlord and Tenant Act 1954 provides protection for business tenants.

**Total 25 marks**

**END OF PAPER**