

DEGREE OF BACHELOR OF LAWS

M9313 HOUSING LAW (RESIT EXAM PAPER)

Date: Friday 28th July 2023 Time: 2.00pm-4.00pm

Percentage of final mark carried by this paper: 40%

Please ignore the emergency legislation connected with the cost of living crisis in all questions EXCEPT question 1.

Student may bring pre-approved, unannotated statutory material into the examination. This should be in a font size no smaller than 10 point.

Choose 3 questions to answer.

PLEASE TURN OVER

1. Critically analyse the Scottish response to the cost of living crisis in relation to the regulation of residential tenancies. In your answer, please consider and justify what (if any) features of the emergency reforms might be appropriate to retain after any emergency measures expire.

2. *Both parts of this question are equally weighted.*

PART A

Javi is unemployed, having recently lost his job at a social media company. He occasionally gets “cash in hand” work helping acquaintances and contacts with IT issues and is trying to set himself up as a tutor of school pupils. He has also earned a little money making the spare room of his privately rented flat in St Andrews, available to tourists visiting the area (notably golfers wishing to play in the relevant season). The lack of regular income and a need to rely on social security benefits has however caused him a lot of cash flow problems. This has had an impact on his ability to pay the rent for his flat, which he moved into in 2021. He has been persistently in arrears for some four months, and he owes his landlord a total sum that is the equivalent of just under two months’ rent. He has not dealt with the issue and has tried to avoid correspondence with his landlord, Jim. Javi paid Jim a deposit equivalent to one month’s rent when he moved into the flat.

Jim lives with his partner, step-daughter and son in St Andrews in a house wholly owned by his partner and owns no property other than the flat.

Advise Javi as to the possible legal implications of this situation.

PLEASE TURN OVER

PART B

Emily rents from a registered social landlord in Dundee, called Catchment Housing Association. She now lives on her own. Her intimate partner of around two years, Alice, used to stay with her relatively frequently. Emily thought Alice was running her own online fashion business. Emily allowed Alice to keep stock in the living room of the let property. There was quite a lot of coming and going of people delivering goods. Alice was arrested 3 months ago for selling stolen goods from a number of addresses, including Emily's, and tax-related offences. Alice has been jailed for 15 months. Since Alice's arrest, Emily has been late with her rent in each subsequent month, although she is (just about) up to date with her payments at the moment. Her landlord has nevertheless now been in contact with her. Advise Emily as to her legal situation.

3. *Both parts of this question are equally weighted.*

PART A

David moved into a first-floor flat in Govan, Glasgow, in March 2022. He paid a deposit of £600 to secure the flat, the equivalent of one month's rent, receiving a handwritten receipt for this. He has some respiratory issues, which have not been helped by the damp conditions in his privately rented flat. His landlady, Ciara, has told him that he cannot expect a traditional (sandstone) Glasgow tenement to be free from any problems, but David is not convinced that all is well with the property – his friends in what he regards as equivalent properties do not experience similar issues. The windows are single glazed. The fan of the internal bathroom stopped working one month after he moved in: he notified this to Ciara the day after this came to his attention.

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Mould is now apparent on the bathroom ceiling, and has separately developed in the kitchen. He suspects the walls in most of the rooms are damp. There is also an issue with the roof over the common stairway, such that it leaks when there is heavy rain, but Ciara has stated (accurately, in terms of the title deeds) that she is not solely responsible for repairing this. Finally, there is a problem with the boiler, which David did not notice when he moved in at the beginning of the summer. It does not maintain its pressure which means the radiators are not fully effective. David has “bled” the radiators in the hope this would sort the problem, but that has not done so. David comes to speak to you for advice in the autumn of 2022. He is worried about spending a winter in the flat. Explain to David what his legal options are, and what consequences Ciara might face if David pursues this matter.

PART B

Shortly after speaking to you, David contacts you again to say that he and the landlady have come to an arrangement and there is no need to do anything further. Some two months later, he contacts you again, and asks you if you can help him after all. He tells you that after you spoke previously, he received a text message from Ciara informing him that she planned to sell the let property and that he needed to move out; the aforementioned arrangement being Ciara allowed David to live in the property for another two weeks rent free while he found another place, and he had the deposit he paid prior to him taking the tenancy returned in full; he tells you he did spill a bottle of red wine on the sitting room carpet, but Ciara was happy to ignore this in the context of the arrangement when he moved out. David did manage to find alternative accommodation in Drumchapel.

PLEASE TURN OVER

Two months later, David received a call from his former neighbours to say a package had been left for him in the close by a courier. He returned to collect it, and discovered that his former home had in fact been let to someone else by Ciara rather than sold. Does David have any legal options?

4. *Both parts of this question are equally weighted.*

PART A

Wei entered into a tenancy with James on 1 July 2020, to rent James's second-floor flat in Edinburgh. The rent was £850 per month, payable on the first day of each month. Wei suspected it was a property that was formerly used for short-term letting, but with the short-term letting market being badly affected by the pandemic he wasn't complaining when he got access to a nice property in what he regarded as a trendy area. He paid a deposit of £850 to James in relation to the let. Nothing of note happened during the rest of 2020 and the first few months of 2021, save for the secure entry system to the tenement close breaking and then James and the other owners of flats in the block fixing it during March 2021. On 29 March 2021, James contacted Wei to let him know that his rent would be increased to £875 in three months' time. Wei thought he was still getting a good deal, so he quietly accepted this rent increase, which took effect from 1 July 2021. Again, nothing particularly happened in the second year of the let (save for Wei being late with one rental payment over the Christmas season), until Wei received a further rent-increase notice on 28 March 2022. This notice told Wei that the flat was now being managed by Gregor Properties Ltd and his rent would increase to £1,350. Wei was flabbergasted and contacted James, pointing out this was an increase of more than 50% of what he had been paying, and stressing that he was in no financial position to pay that rent.

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James matter-of-factly replied to note this new rent was reflective of the market in Edinburgh in 2022, particularly with the return of students to campus-based learning and the full return of the Edinburgh festival and tourism more generally, but also directed that Wei should now speak to Gregor Properties Ltd who were now managing his flat on his behalf. Wei comes to you for advice, seeking to clarify whether James is allowed to do this, and if so whether he can somehow appeal the rent increase.

PART B

Whatever the answer in Part A, now suppose Wei is indeed going to be liable to pay an increased rent as from 1 July 2022. Wei cannot meet this new rent and he needs to know what his options are. He tells you he does not want to be in debt and as such he would rather leave his current property on as good terms with his landlord as is possible, but he has nowhere to go: his mother is in sheltered accommodation in Edinburgh (his father died in 2020), one brother is in London, another brother lives in South Queensferry with his family, and another brother lives in Hong Kong. His job is in Edinburgh and he went to school in the city. He reckons he can “couch surf” for a few weeks with friends but he is worried he only has so much goodwill for this. He cannot find anywhere to privately rent in the areas of Edinburgh he would want to live on his budget; indeed, he is struggling to find anywhere to rent in areas of Edinburgh where he would not normally consider living. Set out Wei’s legal options to obtain housing in the current situation.

PLEASE TURN OVER

5. *Both parts of this question are equally weighted.*

PART A

Jackson is the tenant of a council house in Stranraer, where he lives with two of his two sons (aged seventeen and fifteen respectively), and their dog. His daughter, Nicky, is twenty and studies at the Royal Conservatoire of Scotland in Glasgow. Jackson and his sons have resided in the Stranraer house for thirteen years, ever since Jackson's partner (and the mother of all three children) passed away. Generally the property suits them well, but there are some issues with it. For several years it has been apparent that "nail fatigue" is setting in with the roof. Some of the slates are loose and when there is very heavy rain water has been known to enter the property. There is a Velux window in the roof with a withered seal that also allows some water to pass through it. Externally, approximately a year ago a pool of stagnant water started to appear on their drying green after any significant period of rainfall, and in recent months this pool is getting worse and affects a path to and from the house. Internally, the door between the living room and kitchen/dining area has fallen off a hinge, through ongoing wear and tear, and very recently the kitchen sink has become blocked.

Advise Jackson as to what his options are.

PART B

Jackson sadly dies after a sudden illness. Both sons wish to take on the tenancy. Advise them.

PLEASE TURN OVER

6. Critically analyse how Scottish housing law reacts to a situation of relationship breakdown where married/civil partnered couples or cohabitants have been sharing rented accommodation in both the private and social rented sectors.

7. *Both parts of this question are equally weighted.*

PART A

Lisa is the tenant of a “main door” flat in Glasgow which she has rented for twelve months. She lives there alone and feels she has been a good tenant, but she acknowledges she was late with her rent on several occasions and missed her last month’s rent entirely as she simply could not afford it. She had hoped her landlord, Bob, would be understanding of the situation, but three weeks after this most recent non-payment she returned home to find the lock to her door had been changed and her personal effects and goods were piled up in the front garden. When she arrived, a man who she had never seen before told her he’d been watching her stuff until she came home, and promptly left the scene. After phoning a friend and then the police, she was able to confirm that none of her moveable property was missing or damaged. Her friend and her brother (who lives nearby) were able to store that moveable property safely, but she now wishes to hold Bob to account for what has happened. Assuming that she can track him down, what consequences will he face?

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PART B

Adam, Saanvi, Jane and Abdullah all stay in a shared, fully-furnished flat in Glasgow, having met as students in the city. They rent the property from Tom. They signed a document headed “SHORT ASSURED TENANCY” in September 2021. Whilst Tom seems like a nice, laidback landlord he has been slow to respond to requests to fix broken appliances and the leaky shower hose in the bathroom has never been fixed, so Saanvi decided to check whether Tom was a registered landlord. She can find no record of this fact, or whether he has taken any other steps required to let out the property to the four occupants. Advise the four friends as to what this might mean for them.

END OF PAPER

INTERNAL EXAMINER: MR MALCOLM COMBE

EXTERNAL EXAMINER: ME DALE MCFADZEAN

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