

THE UNIVERSITY OF
NEW SOUTH WALES



FACULTY OF LAW

LAWS1072 – Contracts 2
FINAL EXAMINATION - November 2004

Time allowed: 2 hours, plus 10 minutes reading time

Examination condition: THIS IS AN OPEN BOOK EXAMINATION.
You are permitted to bring any printed or handwritten materials into the examination room.

OTHER INSTRUCTIONS:

1. This paper comprises one question only.
2. Your NAME and STUDENT ID should be written on the front of each exam booklet you use.
3. Your TEACHER'S NAME and your CLASS TIME should be written at the top right hand corner of each exam booklet you use.
4. Write legibly in ink.
5. You may retain the examination paper.

Jonathon and Lelia are a married couple who have recently separated, due mostly to Jonathon's overbearing manner and bullying of Lelia. Lelia owns 2 properties in Randwick (Property A and Property B).

Jonathon consults his doctor, Doctor Zeland, about a minor complaint. At the end of the consultation Doctor Zeland mentions that his pathology lab needs to move from its current premises within two weeks as the landlord wishes to re-develop the site. Dr Zeland has found it impossible to find alternative premises.

Jonathon mentions that Lelia owns a property which would be suitable (Property A). She has been without a tenant for a few weeks and is keen to get someone at \$1700 a week. Dr Zeland says to Jonathon 'That's a bit more than I'm wanting to pay, but if you could talk her down a bit, say to around \$1400, I'd definitely be interested.'

Jonathon tells Lelia that Dr Zeland needs new premises for his pathology lab, and is willing to pay \$1400 per week, but Lelia says that she is unwilling to reduce the rental. She has been told by a real estate agent that the rooms should fetch \$1700 a week.

Jonathon gets a bit worked up. He says to Lelia: "You're a grasping greedy cheapskate. Thank goodness I don't live with you any more. You are such a tight wad! Can't even reduce the price for your own doctor when he's in a spot. Forget it, I'll tell him you can't bring yourself to accept the measly amount of money he's offering!"

Lelia is mortified, and as usual is reduced to tears by Jonathon's criticisms. Although she believes that the rooms are worth \$1700 a week, she is so distressed by Jonathon's criticism that she agrees to come down to \$1500 a week for Dr Zeland.

In truth, Jonathon is keen for Dr Zeland to take Lelia's premises as Jonathon runs a cleaning business in the area. Cleaning pathology labs brings in good money, and Jonathon is sure he'll get the cleaning work if he can organise for Doctor Zeland to take the premises.

Dr Zeland and Lelia meet to look over Property A. Dr Zeland is impressed, and mentions that with the additional space which property A has the pathology lab should be able to take on some extra business.

After some discussions contracts are signed as follows:

Contract 1: Between Lelia and Dr Zeland, whereby Doctor Zeland agrees to lease Property A for 1 year at \$1500 per week. While both parties know that this area is to be used for the pathology services, there is nothing in the lease to this effect.

Contract 2: Between Dr Zeland and Jonathon, whereby Jonathon will clean Property A twice a week for \$80.

Both agreements are made on August 17th, and are expressed to commence on 1st September.

On 19th and 20th August Lelia receives two separate offers to lease Property A for \$1700 and \$1750 per week respectively. She rejects both, telling the prospective tenants that the premises are already leased.

On the 1st of September the pathology lab moves to the new premises and settles in nicely. With the new premises it has more space and extra capacity. Dr Zeland has heard that another pathology service, Lab X, may have some overflow work available which Lab X is too busy to complete. Lab X is also negotiating with another pathology service. The work from Lab X comes from a very expensive private hospital, and pays extremely well. If it gets the work, Dr Zeland's pathology services would expect to make about \$200 extra per week initially, rising to around \$400 per week within six months.

Jonathon commences cleaning the pathology lab, and invoices Dr Zeland for \$80 per cleaning session.

Lelia advertises to find a tenant for Property B. Matty comes to view the property, and tells Lelia that he needs accommodation for his picture framing company. Matty says his work requires really good ventilation due to the glues he uses in making the frames. Lelia tells him "I think the ventilation is pretty good, but I don't spend much time here. You can check it out for yourself though." In fact, a previous tenant has complained to Lelia about lack of air flow.

Lelia explains to Matty that it is very important she has a steady income from the property, and Matty assures her that he will be a model tenant. He tells her his company's finances have been improving steadily over the past few years, and that picture framing is extremely profitable. In fact, 'Matty's Picture Framing Company' is being evicted from its current premises for non payment of rent.

Lelia and Matty sign Contract 3: A lease over Property B, between Lelia and 'Matty's Picture Framing Company' for three years at \$700 per week. The tenancy is to commence on the 1st of September. Upon signing the lease Matty pays the required four weeks rental bond, and moves into the premises.

For a little while everyone is happy, but unfortunately things deteriorate.

On 1st of December the local council advises Dr Zeland that his pathology lab is operating in breach of zoning, and he is given notice to cease operating a pathology lab on the premises. If the pathology lab moves again, it is unlikely to win the excess work of Lab X.

Dr Zeland pays Jonathon \$80 per week, rather than \$80 per cleaning session. As Jonathon cleans Dr Zeland's premises twice a week, he believes he is entitled to be paid \$160 per week'.

Matty becomes ill, and suffers respiratory and eye problems, from working with glue in a space with insufficient ventilation. He is unable to continue with his work, and has not taken on any new business since moving into the premises. In fact, a couple of \$30 fans would ventilate the area sufficiently. However, Matty does not have much money, and it does not occur to him that he'd be able to buy fans so cheaply.

Advise all parties as to their legal rights and responsibilities arising under contract law.

You should focus on the common law of contract, and statutory provisions covered in the course only. Do not take into account any special common law, equitable or statutory provisions not covered in Contracts 2 (relating for example to leases, occupational health and safety, fiduciary duty etc).