

Final Exam
Massachusetts Landlord Tenant Law
Fall 2012

1. Larry Landlord owns a multi-family house at 225 Main Street, Stow, wherein Tom Tenant is a tenant at Apartment #1. The rent is \$1,000.00 due the first day of each month. Tom has not paid any rent for the months of November or December, leaving a balance of \$2,000.00 in unpaid rent due Larry. This is normal behavior for Tom, who has a history of not paying rent when due. Larry is totally annoyed with this, and wants to end the relationship. Before proceeding with a notice to quit, Larry seeks your advice, and an overview of what he needs to know about this stuff

2. Considering the facts in question 1 above, suppose Larry wins a judgment in Summary Process against Tom for possession and unpaid rent damages of \$2,000.00 through December. Shortly after judgment, Tom begins to feel bad about what he has done. He meets with Larry and attempts to hand over to Larry a bank check payable to Larry for the full amount of the judgment, including interest and costs. Larry really needs the money to make his mortgage payment, which is already late. Ever cautious, Larry calls to talk things over with you prior to accepting the full payment. What would you advise?

3. Tom is a tenant who has lived in his apartment for almost a year, subject to a written lease. His girlfriend Tammy moved in shortly after Tom's tenancy began, and still lives there. About eight months ago, Tom experienced a three-month job loss, during which time Tammy paid the rent using her personal checks. No rent has been paid since September, and Larry found a notice to quit from a book of legal forms. It appears to be sufficient to terminate Tom's tenancy. Prior to mailing it, Larry seeks your advice. What issues should you make him aware of?

4. Larry enters into a lease with Tom, whereby Tom will reside in an apartment for a year from January 1st until December 31st. The rent is \$1,000.00 per month due the first of the month. Around noon on November 1st, Larry was upset that Tom hadn't paid the rent, so he immediately slipped a 14-day notice to quit under Tom's door. Tom comes home from work and finds the notice. Tom brings it to your office seeking your advice. What would you advise him to do?

5. Larry owns a two-family house. He lives in one side and has rented out the other side to a clean-living elderly lady for many years. She has a lease. Larry's college-student son got expelled from school due to poor grades. The kid wants to live in the other half of dad's two-family house. Larry agrees to evict the current tenant so the kid can move in. The tenant wants you to represent her in the eviction case. How would you defend her? Would you handle things differently if she had a tenancy-at-will agreement?

6. Tom is a tenant under a lease. The rent is \$1,000.00 due the first day of each month. The lease expires on October 31st. On November 1st, Tom attempts to pay his landlord \$1,000.00. What are a few of the landlord's options, and what are the likely consequences of each?
7. Larry owns a farm in Newbury. Wally, who lives and works at the farm, was recently fired for stealing. After getting fired, Wally went out drinking. When he returned to the farm, Larry told him to get off the property immediately. Wally is mad he got no notice to quit, and comes to your office to discuss his next move. What would you advise?
8. Larry owns a two-family house, and agrees to rent an apartment to Tom. They signed a lease agreement for a term that began August 1st. Tom has never moved into the apartment, and no rent has been paid. Larry wants his rent money, but is not sure if he can collect it given that Tom never moved in. He's thinking of finding another tenant. What would you advise? How might your advice differ if the tenancy was verbal?
9. Bob checks into a motel on July 1st and signs a form disclosing his name, address, home phone number, the year, make, and model of his car, and the license plate number. He pays by credit card, and is given a key to his room. About an hour later, the motel manager knocks on the door to Bob's room to inform Bob that his credit card was rejected. He wants Bob out immediately. The manager noticed that Bob had already moved all kinds of furniture into the room, which had been totally empty just a few short minutes ago. Bob also has numerous family photos hung on the walls, and the Verizon employee is busy installing cable and phone lines (which did not previously exist) in the room. Bob tells the manager that he isn't leaving unless his tenancy is terminated properly, and a court orders him out after a Summary Process trial. What facts would tend to support Bob's position? What facts could support the manager?
10. Larry and Tom enter into a written lease, whereby Tom would rent an apartment from Larry for one year (January 1st through December 31st) at a rate of \$1,000.00 per month. The tenancy goes along very smoothly month after month. In late December, Tom goes away for the holidays. Upon his return on January 8th, Tom is shocked to find a Summons and Complaint taped to his apartment door. His shock quickly turned to anger. He is most upset that his landlord failed to respect Tom's legal right to a simple notice to quit. When Tom seeks your advice, what would you say? Would you advise otherwise if the tenancy contract was verbal? What if Tom paid the rent for January?

11. Larry rents out an apartment to Tom as a tenant-at-will. The rent is \$750.00 per month, and things go along smoothly for several months. Larry decides to increase the rent to \$1,000.00 beginning November 1st. On November 1st, Tom paid Larry \$750.00. Larry accepted the payment, and then gives Tom a 14-day notice to quit for not paying the full \$1,000.00. Larry asks you to handle the eviction case. What would you advise?
12. Terry is a tenant. She paid no rent for December, and just received a 14-day notice to quit. She has no excuses for not paying rent, and simply wants you to help preserve her tenancy. She knows she messed up, and simply wants to stay in the apartment. How can you help her accomplish her objective of staying in the apartment?
13. Larry Landlord rents to a tenant who has not paid rent in months. Larry wants to evict the tenant, but is afraid the tenant might pay the back rent, and then Larry is stuck with him. Just to be safe, Larry decides to send both a 14-day notice and a 30-day notice to terminate the tenancy. This way, there is no question that the tenancy is over. The tenant comes to you in a state of hopelessness, and wants you to work your magic. What would you advise?
14. If a landlord calls your office to ask if a 7-day notice to quit is legally sufficient, how would you answer the question?
15. Terry Tenant seeks you advice after receiving an eviction notice. Her landlord gave her a 30-day notice to quit citing no cause. Terry got the notice about a week after sending her landlord a letter complaining about a rat infestation. Now that the rats have been eradicated, Terry wants to stay in her apartment. However, she recently received a Summary Process Summons & Complaint, and she wants you to help her prepare a written answer to the complaint. How would you proceed on Terry's behalf?
16. Terry has been Lindsey's tenant at a local three-family house since October 2011. Terry hasn't paid rent for the past two months, and is being evicted. In your initial meeting, Terry reports that she paid Lindsey \$3,000.00 at the inception of the tenancy, which was applied to first month's rent, security deposit, and a pet deposit (\$1000.00 each). Terry was never informed about what happened to these funds or how they were used. How would this information impact your approach to defending her in the eviction case?

17. In representing a tenant in a non-payment of rent case, you learn that the tenant has decided to withhold rent because of defective conditions in the apartment. What are two key reasons that you must determine when the landlord first learned about the defects?

18. Tom Tenant retains your services to defend him in an eviction action. The landlord decided to evict Tom and his minor children after it was determined that Tom's apartment has lead paint. Tom can't find a new apartment, and is afraid of being homeless if his eviction case ends badly. He found a vacant apartment in a nearby building that would be perfectly suitable for his family, but because Tom is a Section 8 recipient, that landlord won't rent to him. Tom was told, "I don't rent to Section 8 tenants." Tom desperately needs your help. Is there anything you can suggest?

19. Betty Basement is a tenant in a house that is notorious for deplorable conditions. She is being evicted because she hasn't paid rent for two months. Her landlord is probably doing her a big favor, though, since Betty is living with a severe rat infestation, no heat or hot water, and leaky windows. In addition, her apartment has been flooded many times due to chronic sewerage backups. Betty has woken up many mornings to the stench of ankle-deep slime and sewerage throughout her basement apartment. Her landlord has known about the situation for several months, and refuses to do anything about it. Betty can't eat or sleep, and cries constantly. How can you help her in this eviction?

20. Tommy Tenant rents an apartment from Ebenezer Scrooge. Tommy saw Scrooge on a downtown street, extending a warm and sincere holiday greeting to his landlord. The furious response from Scrooge surprised nobody. He growled inaudibly, and raised his cane in an attempt to strike Tommy with it. Tommy was determined not to let the incident diminish his spirit. He continued his trek through town greeting passersby with a big smile and a warm handshake. Around noon, he returned to his apartment unable to get in because the locks had been changed. A note was crudely nailed to the door ordering Tommy to leave the premises immediately, as the electricity was shut off and the locks were changed. The note further informed that all Tommy's belongings would be moved out of the apartment the next day (Christmas), and placed in the driveway for Tommy's retrieval. As you are preparing to leave your office for the holidays, Tommy dashes in, seeking your immediate help. Can you do anything to stop Mr. Scrooge? How can you help Tommy in the longer term if Scrooge files an eviction case?

Landlord Tenant Law
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From Counsel
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1. John rented an apartment from his old college friend Karen. Karen was a loyal Red Sox fan and long-time season ticket holder. After the two finalized their verbal month-to-month tenancy agreement, they decided to celebrate by going to Fenway Park to see the Red Sox game against the Yankees. John was lucky enough to get the last ticket available. During the game, John became intoxicated and began to act inappropriately. People seated in the area began to complain to the security staff. Security personnel gave John several warnings (although nothing in writing) and notified him that, although he paid in advance for the entire game, he would have to leave the ballpark if his conduct did not improve. After a few more warnings, John was ejected from the premises by force. Unfortunately, the security staff did not know who they were dealing with. It turns out that John is a first-year law student at a prestigious law school. Unhappy with the actions of security personnel, John ran to the courthouse seeking emergency injunctive relief, arguing that he was a paying tenant, and the Red Sox had a legal obligation to restore his tenancy at Fenway Park because the security staff evicted him without the benefit of judicial process. He was confident that the court would have him back in his seat by the end of the game. The basis of John's argument is that he paid for the ticket, and should be entitled to exclusive use of the seat until the game is completed. As long as he paid the full ticket price in advance, (which he did), John feels that the Red Sox should live up to their end of the bargain by recognizing his tenancy, and letting him stay for the full rental term, (the complete game). To add insult to injury, the Red Sox refused to give John any of his money back. John argues that, at a minimum, he shouldn't be evicted without due process of law. You represent the Red Sox. What issues would you expect to be presented, and how would you proceed?
2. Assume the same facts as Question 1. The week after the incident, Karen got notice that, due to the incident, the Red Sox are terminating her season ticket agreement. She was very upset at John for putting her in this position. The next day, Karen served John with a legally sufficient notice to quit terminating the tenancy at will. You represent Karen. Does John have any viable defenses to Karen's eviction action? How would you advise Karen to proceed?
3. Tom rented an apartment based upon a month-to month verbal tenancy. Although he had never had trouble paying the rent, he and the landlord began to have some general disagreements. To begin with, the landlord lived in the same apartment building, and hosted wild parties almost every weekend. Tom really liked living there, and felt it was a great neighborhood to live in. But by December, Tom couldn't take it any more, and decided it was time to move on. On December 17th John served the landlord with written notice that he was vacating the apartment at the end of January. Landlord was shocked, and decided to do everything he could to get back at Tom for this. The loud noises and partying intensified. Every chance landlord got, he would do something to aggravate Tom. Is there anything Tom could have legally done to address the partying other than terminating the tenancy? Please discuss.

4. On June 18th, Terry signed a lease to rent an apartment from Lori. Terry gave Lori a check at the inception of the tenancy in the amount of \$1,000.00 as a security deposit. Lori was in the process of an extensive renovation of the apartment, so it would not be ready for occupancy until July 1st. Lori cashed Terry's security deposit check and used the money to pay for the final few repairs of the apartment just in time for Terry to move in. Terry was so excited about moving into a newly appointed apartment that she never thought to ask for a receipt for the security deposit. She never signed a statement of condition either, and had no idea what ever happened with the security deposit. In fact, Terry never heard another thing about that, but it never came to mind because the two had such a great landlord-tenant relationship. A few years later, Terry lost her job, and began having trouble paying the rent. After falling three months behind in the rent, Terry got a Summons and Complaint in her door from Lori. Terry was shocked. She thought their relationship was close enough that Lori would at least give her a verbal warning about all this. Terry was irate to think that Lori would abruptly take the matter to court instead of working it out somehow. The least she could have done is call Terry. If you represented Terry, what might you advise her as the trial date approaches? If the case goes to trial, what defenses/counterclaims might Terry have?
5. Terry rented an apartment from Larry. A year into the tenancy, Terry contacted Larry to complain that there was no heat. Larry did nothing to address the situation. After a few days, Terry called Larry again to complain, and Larry told him to "put on a sweater." None of Larry's 150 apartment units were vacant at the time, so Terry decided to move his wife and children into a hotel temporarily. He then immediately reported the lack of heat to the local board of health. The health inspector conducted a site visit, and cited a number of health code violations, including a rodent infestation, missing screens, impassable stairways, a faulty furnace, raw sewerage in the basement, no running water and a very leaky roof. In addition, the premises had no smoke detectors. Larry received a copy of the violation notice from the town. Terry then notified Larry that the monthly rent would be withheld until the health code violations were resolved. On the first of the following month, Larry became upset about the non-payment of rent and served a fourteen day notice to quit upon Terry. You represent Terry. What are the possible defenses and counterclaims for Terry? How do you suppose Larry will respond to your arguments. What would you expect the court to decide?
6. Ell rented an apartment to Tee for \$500.00 per month. The parties agreed on a verbal tenancy at will. After eighteen months, Ell decided to increase the monthly rent to \$600.00. Ell sent Tee a written notice of the rent increase, which was "effective the first of next month." Tee failed to pay the increased amount of rent the following month, and Ell served a fourteen day notice to quit. You represent Tee. How would you proceed?

7. Lenny rents an apartment to Ray. After a few months, Ray began to fall behind in the rent. On November 25th, Lenny served Ray with a legally sufficient notice to quit for non-payment. Ray felt bad about the situation, and by November 29th, he borrowed enough money to pay Lenny all the rent that was owed. Unfortunately, on December 1st, Ray was unable to pay the December rent, and because he had already borrowed money from all his friends, he couldn't pay Lenny. Lenny was insulted, and immediately served Ray with a Summons and Complaint. A court date was fast approaching, and you have been retained to represent Ray. How would you proceed given these circumstances?
8. Joe rents an apartment to Mike. Mike failed to pay rent for December. On December 3rd, Joe serves a fourteen day notice to quit for non-payment of rent. Mike was upset about this, as he and Joe are very close friends. Mike tried hard to resolve the dispute with Joe, and left several telephone messages at Joe's house attempting to straighten everything out between them. Mike does not hear back from Joe, and instead, on December 14th, Mike receives a Summons and Complaint from the Sheriff. Mike cannot believe his old friend won't attempt to work this out in a more friendly way, and he really didn't want to face the embarrassment of all this in open court. Now Mike wants to fight back, so he complains to the local board of health about defective conditions. The health inspector inspects the site, and sends Joe a violation notice for several legitimate health code violations. Mike asks you to represent him at housing court. What defenses and/or counterclaims would you consider? What are the strengths and weaknesses of Joe's case?
9. Assume the facts as Question 8. A few days after serving the Summons and Complaint on Mike, Joe decides that he does not want to go through all this legal maneuvering just to evict Mike. Since the rental arrangement was verbal, Joe decides to avoid all the costs and headaches by just taking matters into his own hands. While Mike was at work, Joe changed the locks of the apartment and turned off the water and electrical services. Mike returns from work and is shocked to find that he cannot get into his apartment. What would you advise Mike to do? How would you advise Joe?
10. In the early morning of December 1st, Mr. Scrooge served his tenant with a thirty-day notice to quit for no cause. The tenant is ninety years old, has lived in the apartment for sixty-five years never missing a single rental payment. After the thirty days was up, Scrooge learned that the tenant was still in the apartment. He knew this because he could hear the New Year's Eve Celebration on her television. Very angry about her disrespect, Scrooge knocked on the apartment door interrupting the tenant's celebration, and handed her a Summons and Complaint. You represent the tenant. What are your thoughts?

11. You represent a landlord seeking to recover possession of an apartment for non-payment of rent. On December 13, 2005, a notice to quit was served. What's the earliest date you could serve the Summons and Complaint? When would you enter the case? When is answer day? When is trial day? Would trial day be different if the tenant serves discovery on landlord? Supposing the tenant has not answered the complaint, and you get to trial only to learn that tenant has filed a motion with the court to file a late answer. The court allows tenant's motion. Would that automatically change the trial date? If landlord wins the case, can he go directly to the apartment and move everything out? What would you advise him if he sought your counsel about post-trial matters? Could tenant delay the move somehow?
12. In a non-payment situation, what are the elements of the landlord's prima facie case?
13. Landlord advertised a newly renovated first-floor apartment for \$800.00 per month. Tommy answers the ad, and the two met at the apartment for a tour. Tommy was unable to get into the apartment because there was a step to get up onto the porch, and his wheelchair couldn't make the step. That didn't matter too much, because Tommy could clearly see into every room of the apartment through the windows without any problem. He liked the place very much, and presented a check to the property manager for first, last and security. Landlord refused the check, and Tommy left feeling bad. He kicked himself for not telling Landlord about his disability. Knowing you represent landlords, Tommy tells you about his frustration, and asks if you know about any vacant apartments he could rent. What might you advise Tommy? What would you advise Landlord?
14. Landlord serves a notice to quit on Tenant for non-payment of rent. Tenant lived in Apartment 2, and was three months in arrears on his rent. A couple of weeks later, Tenant took in a roommate hoping to relieve his financial burdens. Shortly before the eviction trial, roommate saw Landlord at the apartment. Roommate gave Landlord \$800.00 and asked that it be applied to Apartment 2. Tenant didn't pay any more money to Landlord. Landlord continued with the eviction process against Tenant, and won his trial. After obtaining the execution for judgment, Landlord sent a constable to the apartment to move everything out. Roommate put up a big fight against moving his stuff out. How would you proceed to stop the move, and on what basis?
15. Landlord rented an apartment to Tenant. One day, a few months into the tenancy, another person enters the apartment using a key given to him by Landlord. When asked what he was doing in the apartment, Tenant answered that he rented it from Landlord, and showed the written Lease to the person. The person responded, "Well, I guess that's alright, as long as I can get in here once a month or so to get at my stuff that is stored in your kitchen closet." The arrangement was not agreeable to Tenant. He complained to Landlord, who simply told Tenant to "lighten up! It's not like the guy is coming in every day!" Are there any remedies for Tenant? What would you advise?