

Comments:

Q1 Lease/Licence

A strong answer will follow the suggested structure for this topic, explain the law/rules relating to leases (supported by relevant cases or statute) and thoroughly apply the facts of the scenario to demonstrate whether each rule/requirement has been met. The conclusion should provide clear, practical advice to the client (which will link to forfeiture).

Context

A strong answer will clearly explain importance of lease/licence distinction to our client's situation. Rather than general information about leases and licences, strong answers focus on the proprietary nature of a lease, that due process must be followed to end a lease and that if Pets Bedding (PB) have a lease they may have security of tenure under LTA 1954. This part of your answer could have been more concise to focus on the key issues for our client which relate to the difficulty he will face removing PB if there is a lease rather than a licence.

Test from Street v Mountford

A strong answer will state the requirements, explain what each means using authorities and apply the facts to show if these requirements are met. For exclusive possession (EP), a thorough answer would discuss the agreement's labelling, the provision of security services and the sharing clause should all have been discussed.

Please explain what 'EP' means. This will help support your statement that if CL 3.3 is a genuine clause it would deprive PB of exclusive possession. You seem to conclude (correctly) that this clause is a sham but without fully explaining this concept. It would also help to compare our facts to decided cases – for example Aslan v Murphy where services were never provided. In addition to Cl 3.3, Cl 6.3 and the labelling of commercial agreements should have been discussed to round out your discussion of EP.

For certainty of term, please explain more directly what this means. For the term to be certain, the maximum duration should be known from the outset. You used the facts to show this which was good.

Exceptions

The facts say Greta is our client's cousin. Strong answers will explain and apply the law around whether the parties intended to create legal relations despite being cousins.

Formalities for creating a lease

The s54(2) LPA 1925 requirements should be stated, explained and applied to the licence agreement to determine whether this is a three-year legal lease even though not granted by deed.

Please use the suggested structure for this topic. It will help you identify relevant content to conclude – so the possible exception (around agreements between family members) and the formalities for creating a lease here.

Conclusion

A strong answer will conclude that PB may have EP and therefore a legal three-year lease which means the security of tenure provisions of LTA 1954 could apply. In that case, unless Jack can forfeit the lease, he may not be able to remove PB.

Q2 Forfeiture

A strong answer will address all requirements from the 'forfeiture checklist' we discussed in the workshop. For each of the requirements, please advise the client as to anything that is required or that he should know about (like not to waive the breach) and use the facts of scenario when advising.

You did mention most of the items from the forfeiture checklist but please revise this content (which is basically a suggested structure for dealing with forfeiture). You had some good application of the facts for the forfeiture clause and demonstrating the breach. However there were omissions – for example a discussion of waiver and that the wording of Cl 11.2.1 says 'whether formally demanded or not' which means Jack does not have to serve a notice. Relief is also particularly important here as Jack needs to know that relief is likely to be granted if Greta can pay.

Overall, many of the key issues were discussed and there were good examples of applying the facts of the scenario. To improve this answer (and for the summative), please be sure to use the suggested structure and follow the approach we use in workshops – state the requirement, explain what it means (citing authority where possible) and apply the facts to show if this has been met. This will strengthen your analysis. If you have an issue relating to a lease (or an agreement that could be a lease), you should be prepared to advise on forfeiture so please revise this material.