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1. What claims if any, my Tuan reasonably assert against Leo?

Type of Tenancy: Tenancy for Years

A tenancy for years occurs when a landlord and tenant enter into a lease agreement for specific set of years. Here, Tuan ("T") and Leo ("L") entered into a 10 year lease agreement for a warehouse owned by L for \$1,000 a month with a start date of January 1, thus T and L entered into a tenancy for years because the lease was for 10 years and was between T and L.

T and L entered into a valid tenancy for years.

Duties of Landlord: Breach on January 1

A landlord owes several duties to a tenant that include the duty to provide the leased premises as provided by the lease agreement.

Here, T will argue that L breached his duty as a landlord to provide the leased premises because when he attempted to occupy the warehouse on January 1, the warehouse was still occupied by Annika who had a valid executed lease which was not due to end until January 31. Thus, L leased premises that he did not have access to because he still had another tenant occupying the warehouse under a valid lease and as a result T was not able to occupy the premises as stated in his lease. T was going to use the warehouse to store his antiques from his antique business and as a result had to find another warehouse to lease for the amount of 1,500.

The court will find that L breached his duty to T to provide premises based on his valid lease agreement.

Tenant Duties

A tenant has a duty to pay rent to the landlord and maintain the leased premises. Upon breach by a landlord, a tenant has the option to inform the landlord and be released from the lease. Here, there is not indication in the facts that T ever informed L about occupying the warehouse. L will likely argue that he was never informed by T regarding the tenant and thus never had any notice that T would not continue with his lease. T will argue that his business will suffer because he has now incurred additional costs due to not being able to occupy the warehouse because L failed inform him of another tenant and L double leased the premises and thus T has a right to break the lease.

The court will likely find that the T had the option to cancel the lease due to L not delivering premises available.

T and B Lease Month to Month

A month to month tenancy is a tenancy entered into by a landlord and tenant that is for a month to month duration meaning the tenancy is for 30 days at a time.

Here, upon discovering that he could not move the antiques into the warehouse because Annika

was possessing the warehouse, T entered into a month to month lease with Bruno for \$1,500 month.

As a result of the breach by L T will be able to seek damages against L for the costs in renting a new warehouse for the months between January and May 31.

Damages

Damages for a breach of a lease agreement can include foreseeable and consequential damages that occur as a result of the breach.

Here, T will argue that he is entitled to damages for the additional \$500 that he had to incur because he was unable to move in on the January 1 agreed upon date and thus had to rent another identical warehouse from Bruno on a month to month. T will further argue that he attempted to mitigate his damages because he returned to the warehouse on February 1 and was informed by Annika that she would not leave until May 31 and thus T was left with no other option than to continue his month to month rental from Bruno. Lastly, T will argue that he still attempted to complete the lease when he returned on June 1 but discovered that L was not using the warehouse to store equipment that made 25% of the warehouse unusable and thus L continued to breach his lease because he could not provide the property as agreed upon in the lease.

L will argue that he should not be responsible because he was never informed by L about A and was not informed that T would be cancelling his lease until June 1 thus he is not responsible for the damages incurred by T.

The court will likely find L liable to T for the additional rent incurred by T for the months between January and June for a total of \$3,000.

2. What claims if any may Tuan reasonably assert against Annika?

January 1

Valid Executed Lease

A valid executed lease exists between a landlord and tenant when the lease includes the type of tenancy, rent and duration.

Here, the facts indicate that Annika ("A") had a valid executed lease. On January 1 Tuan could not assert a claim against Annika because she had a valid lease that expired on January 31. Thus, at that time on January 1 Annika was within her rights as a tenant until the expiration of her lease because she was within her valid executed lease.

February 1

Privity

A tenant hold privity with a landlord and hold the premises in ownership interest for the duration of their lease. Here, T will argue that as of February 1, he held the legal interest in the property and A became holdover tenant.

Holdover Tenant

A holdover tenant is a tenant that remains in a property without permission after the duration of their lease has expired.

Here, T will argue that A is a holdover tenant because he holds the ownership interest in the warehouse due to his valid lease with L and A is using the warehouse without permission. A will argue that she is not in privity with T and thus he has not interest in the warehouse because her lease is with L and not with T and L is the owner of the warehouse.

The court will likely find that A is a holdover tenant.

Eviction

A landlord may seek eviction action against a holdover tenant to remove the holdover tenant from the premises by providing notice and filing the appropriate eviction action with the court.

Here, T may institute an eviction action against A as long as he informs L and properly gives A notice of the action with the court.

Rent Payment

A new leasee may request rent payments from holdover tenant if the tenant remains in possession of the premises.

Here, T may seek rent payments from A for the holdover of the warehouse. A was in possession as a holdover tenant of the premises for 5 months thus T may seek rent payments from A.

3. What counterclaims may Leo assert against Tuan?

Breach of Lease Agreement

A landlord may seek damages from a tenant if the tenant breaches the lease agreement.

Here L will argue that T breached the lease agreement when he terminated the lease agreement because he did not adhere to his portion of the lease agreement. T will argue that L breached the lease agreement when he failed to provide premises to which T could occupy because L still had another tenant remaining in the property. Additionally T will argue that once A, the holdover tenant, vacated the premises L then moved his equipment into the warehouse and occupied 25% of the premises without T's permission and in violation of his lease agreement to T. Lastly, T will argue that L immediately (next day) placed for rent signs in the window and leased the premises upon T informing him of his termination of the lease agreement. T will argue that he was forced to breach the lease because he could never occupy due to L's actions of double leasing the warehouse and he attempted several times to adhere to the lease and occupy the warehouse.

L will argue that T never informed him of the holdover tenant nor requested that he remove the equipment from the warehouse and did not give L an amount of time to cure any defects in the tenancy.

The court will likely find that although L breached his duty and is not entitled to seek damages for the months that T was unable to occupy the premises.

Tenant Duties

A tenant has a duty to pay rent to a landlord.

L may make one last ditch effort to argue that T violated the terms of the lease because he never paid any rent to L and paid rent to Bruno for an identical warehouse. L will further argue that he is entitled to the additional \$1000 owed on the lease agreement because he was only able to lease to Juanita ("J") for \$500.

This argument will likely fail. Although the facts are silent on whether A continued paying rent to L, it is highly likely that A did because T did not pay any rent to L and a landlord not receiving rent is likely to inquire as to rent payments from a tenant and thus L was still receiving rent payments and was aware of the holdover tenant. Additionally, T will argue that L did not suffer loss because upon A vacating the premises he was utilizing 25% for storage on June 1 and the next day after T terminated the lease, L retook possession of the warehouse and placed "For Rent" signs in several windows. L also entered into a lease agreement with J shortly thereafter and began a new tenancy July 1. L will argue that T had possession of the warehouse and absent his breach he would have occupied his warehouse according to his lease.

Damages

A landlord may be entitled to damages despite a breach if he did not have notice of a breach.

Here, L will argue that he had no notice however the fact that there was no inquiry to rent payments for 5 months, will likely not allow L any damages. If L was unaware and believed that T was occupying the premises he may however the indication of the absence of furniture from T's business was likely enough for him to notice. If he was aware he would have been entitled to the difference of the new lease \$1000 for the 4 months after A's lease expired.

The court will likely find that L cannot reasonably assert any counterclaims against T.

Question #3 Final Word Count = 1766

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