



Qualifying Test Question Paper:

00485: Fee Paid Lawyer Chairman of the Residential
Property Tribunal (2010)

Qualifying Test Questions

- **Give reasons for all your answers**, specifying which Rule, Statute or case led to your decision
- Bullet point or note form is acceptable for all your answers
- The paper consists of Part A (dealing with preliminary matters) and Part B (dealing with the substantive hearing and the decision). You are advised to apportion your time to each part accordingly.
- There are 8 questions in total.
- Please be aware that there are 20 marks available for question 8
- In Question 8, two of the marks can be awarded at the marker's discretion. These will be awarded for: a) display of focus and clarity of thought in the answer provided; b) display of good and structured logical reasoning in your answer.

Part A (42 points)

1.

Ignoring the issue of the timing of the request, as a preliminary issue, would you allow Mr Norman to be joined as a party to the proceedings, and what factors would influence your decision?

6 marks

2.

Would you have insisted on inspecting Room A? Give reasons for your decision.

3 marks

3.

(a) Would you proceed with the hearing in the absence of the LHA lawyer and the LHA Housing Officer? Give reasons for your decision.

8 marks

(b) Would your answer to (a) differ if the LHA lawyer and the LHA Housing Officer turn up ten minutes late and all the parties are still in the hearing venue?

1 mark

4.

If Mrs Cantero were to ask you to withdraw from the case because of your affiliation to the lawyer's association for tenants, what factors would influence your decision and what would you decide?

10 marks

RESTRICTED – APPOINTMENTS

This paper should be left in the test room at the end of the test session. The contents of the test should not be discussed with or divulged to anyone.

5.

The hearing commences with Mrs Cantero representing the appellant and the LHA lawyer (who has now arrived) representing the Respondent. Assume also, for the purposes of this question, that Mr Norman's request to be joined as a party was granted that morning as a preliminary issue. You receive a request for an adjournment in the following three circumstances:

Would you grant an adjournment in these situations? Give your decision and reasons for each of the questions.

(a) Mrs Cantero says she only received the LHA bundle one week ago (in breach of the Directions) and the LHA Housing Officer has not turned up and therefore cannot answer questions.

5 marks

(b) Mrs Cantero also says that she wishes to call Dickens' architect to comment on the layout of the property but she was informed last night that this witness has been suddenly taken ill.

4 marks

(c) Mr Norman says that he feels disadvantaged by not having his own legal representative.

5 marks

Please turn over- Part B overleaf

RESTRICTED – APPOINTMENTS

This paper should be left in the test room at the end of the test session. The contents of the test should not be discussed with or divulged to anyone.

Part B (43 points)

6.

Assuming the full hearing now takes place (either on the same day or later)

(a) Would you take account of the information on fire prevention measures you obtained from your inspection?

4 marks

(b) What areas would you cover in questioning Mr Norman in order to establish whether or not he is an appropriate person to manage the property?

Marks will be considered for reference to:

- Different subject areas to question
- Different questions in each subject area
- Any relevant application of statute.

14 marks

7.

Members of the public are present at the hearing. Someone from the back shouts “that man Norman is a sex offender” and produces a copy of a certificate of conviction under the Sexual Offences Act 2003.

How would you handle this situation?

5 marks

8.

Assume the hearing has been completed, and you are now in private deliberations with your fellow tribunal members. Bearing in mind what you do know about the parties cases, what points (both legal and factual) would you cover in deliberations with tribunal members in order to reach a determination?

When writing your answer, please make reference to:

- the relevant part(s) of the background law
- the relevant facts in the scenario
- how the law applies to the scenario.

20 marks

RESTRICTED – APPOINTMENTS

This paper should be left in the test room at the end of the test session. The contents of the test should not be discussed with or divulged to anyone.



Qualifying Test Scenario:

00485: Fee Paid Lawyer Chairman of the Residential
Property Tribunal (2010)

This page is intentionally blank

Instructions

The test has been designed by Residential Property Tribunal Service members and will assess the following qualities and abilities:

- **Intellectual Capacity:**
 - Ability quickly to absorb and analyse information
 - Appropriate knowledge of the law and its underlying principles, or the ability to acquire this knowledge where necessary
- **Authority and Communication Skills**
 - Ability to explain the procedure and any decisions reached clearly and succinctly (in writing)
- **Efficiency:**
 - Ability to work at speed and under pressure

In accordance with the Lord Chancellor's guidance, the test is also designed to give an indication of candidates understanding of, or potential to learn, housing and landlord and tenant law.

You have **90 minutes** to read the paper and complete the test either using a laptop or in manuscript depending on the process you have chosen.

The preparation materials have been provided separately.

You may make notes on any documents but must not remove them from the assessment room. Please write your answers on the notebook or laptop provided.

The test consists of a case scenario and **8 questions broken down into Parts A and B**. In total 85 marks are available; 42 marks for Part A and 43 marks for Part B. The mark for each question is shown in brackets. Please be aware that there are 20 marks available for question 8.

You may answer the questions in any order however, please ensure that you clearly indicate which question is being answered on your script and write/type the word END after your last answer.

BACKGROUND

1. Bladon House (the Property) is a House in Multiple Occupation (HMO) and requires a licence under the mandatory licensing scheme introduced by the Housing Act 2004.
2. The Property is a five storey residential mid terrace Victorian property which has 9 rooms, some of which have their own cooking and washing facilities, together with a communal kitchen and three communal shower/bathrooms.
3. The property was recently acquired by Dickens Management Company Ltd (Dickens) and it is proposed that the property will be managed by Mr Norman, a director of Dickens.

THE APPLICATION

4. An application for a licence for the Property was sent to the Local Housing Authority (LHA) proposing Dickens as licence holder and Mr Norman as manager.
5. The LHA refused to grant a licence, because they considered Mr Norman had insufficient experience of managing HMOs, although they did concede that the house was reasonably suitable for occupation by nine households. The LHA stated that Mr Norman's previous experience was only in the management of six short term lets.
6. Dickens appealed to the Residential Property Tribunal.
7. In accordance with its standard practice, six weeks before the hearing, the Tribunal sends out Standard Directions to the parties giving proper notice of the time, place and date of the hearing and ordering each party to supply the other with a bundle of documents 14 days before the hearing.
8. A week before the hearing, the LHA sends the Tribunal its bundle of documents and notifies the Tribunal that it has also sent the bundle to the lawyers acting for Dickens. They inform you that the LHA will be represented by an in-house lawyer, and they will call the LHA Housing Officer as a witness.

BEFORE THE HEARING

9. Four days before the hearing the Tribunal receives a letter from Mr Norman asking to be a party because he considers that his character has been called into question. He says that Dickens are represented by lawyers, but he will attend on his own behalf.

10. Mr Norman adds that he typically calls at the property and if a tenant complains he looks into the complaint. Where a repair or maintenance need requires a large amount of money to be spent he will obtain a bank overdraft. He did not think that the LHA had fairly considered his past management experience.
11. There was insufficient time before the date of the hearing to deal with Mr Norman's application for party status.
12. The Tribunal inspected the property in the morning prior to the hearing in the presence of Mr Norman and the LHA Housing Officer. The door marked 'fire escape' from the communal kitchen was locked with no 'panic' bolt or key in evidence. Fire extinguishers had not been correctly sited, and there was no indication that they had been regularly serviced or maintained. The LHA Housing Officer remarked that he had not noticed these when he last inspected the property prior to the decision refusing the licence.
13. One of the occupiers of Room A in Bladon House does not want to allow inspection, because he says no one told him about it and he wants to sleep.
14. Just before the hearing the Tribunal clerk informs you that neither the LHA lawyer, nor the LHA Housing Officer has arrived. Mr Norman arrives with Mrs Cantero, the lawyer for the appellant (Dickens). The latter states she only received the LHA bundle one week ago and reiterates she does not act for Mr Norman.
15. In the lead up to the hearing, Mrs Cantero has learnt that you (as Chairman) are also a member of a lawyer's association that promotes the rights of tenants and she is concerned that her client may not get a fair hearing.