

Neutral Citation Number: [2001] EWCA Civ 704
IN THE SUPREME COURT OF JUDICATURE
COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
TECHNOLOGY AND CONSTRUCTION COURT
(Mr Recorder Black QC)

Royal Courts of Justice
Strand
London WC2

Thursday, 10 May 2001

Before:

LORD JUSTICE WALLER
LADY JUSTICE HALE and
LORD JUSTICE DYSON

SUN LIFE ASSURANCE PLC Claimant/Respondent

-v-

(1) THALES TRACS LIMITED
(2) THALES PROPERTIES LIMITED
Defendants/Appellants

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Mr K Lewison QC and Mr M Sheehan (instructed by Thales Corporate Services Ltd, Fleet, Hampshire) appeared on behalf of the Appellant Defendants.

Miss H Williamson QC and Mr M Wonnacott (instructed by Messrs DLA, London EC2) appeared on behalf of the Respondent Claimant.

JUDGMENT

1. **LORD JUSTICE WALLER:** I will ask Lord Justice Dyson to deliver the first judgment.
2. **LORD JUSTICE DYSON:** This is an appeal by the defendants from the order of Mr Recorder Black QC, sitting as a deputy judge of the Technology and Construction Court. The single issue raised by the appeal is whether a tenant of business premises who makes a request for a new tenancy under section 26 of the Landlord and Tenant Act 1954 (“the 1954 Act”) must have a genuine intention to take up a new tenancy at the time when he makes the request. The judge held that he must. On behalf of the defendants, Mr Lewison QC submits that he need not. The significance of the issue is that if the appeal succeeds the defendants will be entitled to compensation under section 37 of the 1954 Act. There is no authority directly on the point.

The Facts

3. The facts as found by the judge were as follows. Both defendants are companies in the Thales Group of Companies. They were previously known as the Racal Group of Companies. I shall refer to both defendants as “Thales”. Thales was the tenant under two leases which were due to expire on 24 December 1998. One lease was held by the first defendant and the other by the second defendant. The claimant (“Sun Life”) was the landlord under both leases. In the summer of 1996 Sun Life indicated to Thales' agent that they would require vacant possession at the end of the leases. An adjoining site was on the market and both Sun Life and Thales were interested in acquiring it. In January 1997 Sun Life wrote to Thales saying that they would resist any renewal of the tenancies on redevelopment grounds. In September 1997 Thales held an internal meeting at which it was said that, on the basis that Sun Life would not renew the leases, the adjoining site would enable Thales to replace the premises which it would have to give up.
4. In November 1997 Thales exchanged contracts for the purchase of the adjoining site. Completion was deferred until 1 April 1998. On 9 January 1998 Thales served two requests for a new tenancy under section 26 of the 1954 Act, one in respect of each lease. The validity of these requests was challenged by Sun Life on technical grounds which need not be mentioned here. Thales served further requests on 11 March. Sun Life served counter-notices to each request under section 26(6), stating that they would oppose a renewal of the leases on the grounds that they intended to redevelop. On 23 April 1998 Sun Life offered to renew the leases, but Thales replied that their plans were too far advanced to reconsider occupation of the buildings after December 1998. Nevertheless, the possibility of continued occupation after that date was discussed by Thales at an internal meeting on 18 June, but this option was rejected. By that time, Sun Life had withdrawn their ground of opposition.
5. Thales did not apply to the court for the grant of new tenancies and vacated the buildings on 23 December 1998.
6. The judge found that in September 1997 Thales had decided to move out if the adjoining site could be secured on acceptable terms and that the site had been secured on acceptable terms before the requests were served on 11 March 1998. He also found

that this did not mean that Thales acted in bad faith. He accepted that Thales believed that, whether or not they genuinely wanted to renew the leases, they were entitled to compensation because they fulfilled the necessary statutory criteria.

7. Having found that Thales had no intention of taking up new tenancies when they served their requests, the judge held that the proposals contained in the requests were not genuine proposals and that the requests were therefore invalid. I should say at once that there is no challenge by Thales to the finding of the judge that they had no intention of taking up new tenancies when they served their requests.

The Statutory Provisions

8. Section 24(1) provides:

“(1) A tenancy to which this Part of this Act applies shall not come to an end unless terminated in accordance with the provisions of this Part of this Act; and, subject to the provisions of section twenty-nine of this Act, the tenant under such a tenancy may apply to the court for a new tenancy -

(a) if the landlord has given notice under [section 25 of this Act] to terminate the tenancy, or

(b) if the tenant has made a request for a new tenancy in accordance with section twenty-six of this Act.”

9. Section 25 provides for the termination of a tenancy by the landlord.
10. Section 26 provides for the termination of a tenancy by a tenant's request for a new tenancy. So far as material, it provides:

“(3) A tenant's request for a new tenancy shall not have effect unless it is made by notice in the prescribed form given to the landlord and sets out the tenant's proposals as to the property to be comprised in the new tenancy (being either the whole or part of the property comprised in the current tenancy), as to the rent to be payable under the new tenancy and as to the other terms of the new tenancy. ...

(5) Where the tenant makes a request for a new tenancy in accordance with the foregoing provisions of this section, the current tenancy shall, subject to the provisions of subsection (2) of section thirty-six of this Act and the provisions of Part IV of this Act as to the interim continuation of tenancies, terminate immediately before the date specified in the request for the beginning of the new tenancy.

(6) Within two months of the making of a tenant's request for a new tenancy the landlord may give notice to the tenant that he will oppose an application to the court for the grant of a new tenancy, and any such notice shall state on which of the grounds mentioned in section thirty

of this Act the landlord will oppose the application.”

11. The grounds of opposition mentioned in section 30(1) include (f), which is in these terms:

“(f) that on the termination of the current tenancy the landlord intends to demolish or reconstruct the premises comprised in the holding or a substantial part of those premises or to carry out substantial work of construction on the holding or part thereof and that he could not reasonably do so without obtaining possession of the holding.”

12. Section 29 provides for the grant of a new tenancy by order of the court. Subsection (3) provides that no application for a new tenancy under section 24(1) shall be entertained by the court unless it is made not less than two nor more than four months after the making of the tenant's request for a new tenancy.
13. Section 37 provides for payment by the landlord to the tenant of compensation where the court is precluded from granting a new tenancy on any of the grounds specified in section 30(1)(e) (f) and (g) and no other grounds. It also arises “where no other ground is specified in the landlord's notice under section 25 of this Act or, as the case may be under section 26(6) thereof, than those specified in the said paragraphs (e) (f) and (g) and either no application under the said section 24 is made or such an application is withdrawn ...” The quoted words were introduced by amendment in 1969 so as to make it unnecessary for the tenant to press a doomed application for a new tenancy to the point of failure in order to obtain compensation. The right to compensation now depends simply on whether the landlord has said that he would oppose the grant of a new tenancy on one or more of the three specified grounds.

The Judge's Reasoning

14. The core of the judge's reasoning is to be found at paragraph 108 of his judgment, where he said:

“108. ... It seems inherently unlikely to me that the legislative intention of an Act, said to enable tenants occupying property for business, professional or certain other purposes to obtain new tenancies, was to allow compensation to outgoing tenants by misrepresenting their intentions concerning their desire for a new tenancy. This would be a licence to any outgoing tenant to obtain compensation merely on the service of a notice where he knows that the landlord wishes, for example, to redevelop or occupy the premises himself. I accept Mr Wonnacott's argument that the scheme of the 1954 Act is closely analogous to that of the Leasehold Reform Act 1993 and that the Court of Appeal's reasoning in the Cadogan case ought to apply equally to the present. It seems to me that the 1954 Act is designed to let each party know where he stands, to enable constructive discussion or application to the Court in default. I would therefore construe the reference to ‘proposals’ in section 26(3) to mean ‘genuine proposals’.

The reference to Cadogan was to Cadogan v Morris [1999] 1 EGLR 59, to which I shall come later in this judgment.

In response to the submission by Mr Sheehan on behalf of Thales that there were commercial difficulties in Sun Life's construction, the judge said at paragraph 110 that he thought that it would be a rare case in which a landlord could say that the tenant did not have a genuine intention when serving his request. He added:

“110. ... It seems to me that it would not be enough to establish a misrepresentation as to intention to show that a tenant was keeping his options open. It would only be in comparatively rare cases, such as the present, where a landlord can show that the tenant has in fact taken steps to find alternative premises or where there is other proof that the tenant has taken a final decision not to renew before serving the notice, that the landlord would be able to succeed. That is perhaps why the experienced Counsel in this case can find no direct authority on the issue, notwithstanding that the Act has been on the statute books for 45 years.”

Discussion

15. It is common ground that, in a section 26 case, the right to compensation under section 37 depends on a section 26 request which is either valid or which the parties are estopped from contending is invalid. The appeal turns on the meaning of “request” where it appears in section 26 and of “the tenant's proposals” in section 26(3).
16. On behalf of Sun Life, Miss Williamson QC submits that it is an underlying assumption in section 26 that the tenant should be genuinely seeking the prospect of a new tenancy and proposing the terms of such a tenancy. The Act plainly intends that the tenant should set out genuine proposals as to the tenancy which the landlord is being invited to offer. A section 26 request is a mechanism whereby fixed term business tenants can formalise the terms of the security of tenure granted to them by the 1954 Act after the termination of their contractual terms. It is not intended to be available for the tenant who does not wish to take advantage of such security. A tenant who does not want to have a new tenancy does not need to have recourse to section 26 in order to terminate the statutory continuation of an existing tenancy. He can achieve this objective by serving a notice under section 27. A tenant who has decided not to take a new tenancy cannot request a new tenancy or make proposals in respect of a new tenancy because such a request and proposals would misrepresent his intention. The mental state that is a necessary condition of a valid request is that the tenant should either want a new tenancy on reasonable terms or at least be undecided as to whether he wants such a tenancy.
17. For the reasons that follow, I cannot accept these submissions. The words “request” and “proposal” are ordinary English words. A request is an act of asking for something. A proposal is something that is put forward for consideration. It may in some circumstances be an offer which, as a matter of law, is capable of being accepted

so as to give rise to a binding contract. But it does not have to be. Both “request” and “proposal” are what Mr Lewison called “performative utterances”. They describe an act. They do something. It is not meaningful to ask whether a request or a proposal say anything about the state of mind of the person who makes the request or puts forward the proposal. The meaning of a request and a proposal is judged objectively. The state of mind of the person who makes the request and the proposal is irrelevant to their meaning. Nor is it meaningful to consider whether they are true. On the other hand, there are different kinds of words that do say something about the state of mind of the person using them. Thus, for example, if a person says that he believes or intends something, he is undoubtedly saying something about his state of mind. It is meaningful, and may be relevant, to consider the truth of a statement of belief or intention.

18. I would, therefore, hold, as a matter of ordinary language, that the fact that a request is made or a proposal is put forward says nothing about the state of mind of the person making the request or proposal. A may make a proposal to B which he believes, and possibly even hopes, B will refuse. A may do this solely in order to show himself in a good light in the eyes of C, where he would be deeply unhappy if B were to accept the proposal. He does not wish or intend B to accept the proposal but, as a matter of ordinary language, it is nevertheless a proposal. Take another example: suppose that A makes a proposal which he believes means X, but in fact it means Y, and, if he had understood that it meant Y, he would not have been willing to make it. Again, as a matter of ordinary language, what A puts forward is a “proposal”, notwithstanding his mistake. This is because whether something is a proposal is to be judged objectively and without regard to the state of mind of the proposer.
19. This ordinary meaning of the word “proposal” is reflected in the law. It is trite law that in the contractual context the existence and meaning of an offer has to be determined objectively. The law is not concerned with the subjective intention of the offeror.
20. What about the context of section 26?
21. In my view, considerable light is shed by the decision of this court in Sidney Bolsom Investment Trust Ltd v E Karmios & Co (London) Ltd [1956] 1 QB 529. The tenant requested a new tenancy under section 26. Its proposals did not specify a term of years; it did, however, propose a rent and other terms “upon the terms of the current tenancy”. The term of the current tenancy was seven years. The tenant had intended to propose a new tenancy for a term of 14 years, but made a mistake in drafting the request. The landlord served a counter-notice saying that they would oppose the grant of a new tenancy. The tenant did not apply to the court for a new tenancy, but did not vacate the premises either. The landlord brought proceedings for possession. The tenant claimed that its own request was invalid because it did not state the duration proposed for the new tenancy.
22. In this court it was held that the request did sufficiently set out the duration of the proposed new tenancy: the request impliedly proposed a duration of seven years. It was then argued on behalf of the tenant that the request was invalid because it was

made under a mistake. The judge had admitted evidence of the mistake. It was held on appeal that this evidence was inadmissible. Denning LJ said at p.539:

“I do not think that that evidence was admissible. This case falls, to my mind, within the general principle that parol evidence cannot be admitted to add to, vary, or contract the terms of a written document. Once a tenant, whatever his inmost state of mind, has to all outward appearances made a valid request in the prescribed form setting out his proposals, he cannot thereafter rely on his own mistake to say that it was a nullity or invalid, no matter how important the mistake was. The validity of the request must be judged by the true interpretation of it without regard to what happened behind the scenes. It is a formal document with specific legal consequences and must be treated as such. If the proposals had ripened into a contract, the mistake might in some circumstances be a ground for setting the contract aside in equity, but it would not render the contract a nullity from the beginning, nor does it render the request invalid.”

23. The judgement of Morris LJ is to similar effect. At p.542 he said:

“But the point has to be determined by the court by reference to the document itself, looked at having regard to the provisions of the Act. When a request is made, it is the document, in the form in which it was received by the recipient, that has to be looked at.”

24. At p.543 he said:

“I think, therefore, that the request was a good request. It was a request for a new tenancy made in accordance with the provisions of section 26.”

25. Harman J said at p.545:

“What a man has written he has written, and if what he has written be a request for a term of seven years, it does not become less his request because he did it by mistake.”

26. The judge in the present case sought to distinguish Sidney Bolsom on two grounds, which Miss Williamson seeks to support. First, he said that it was a case of a tenant attacking the validity of his own notice that was formally valid, and there was no issue that the tenant wanted to renew. Miss Williamson says that it is a material distinction that in the Bolsom case the tenant wanted a new tenancy but was arguing for invalidity on the grounds of a mistake as to the detail of the proposals, whereas in the present case the tenant did not want a new tenancy at all. Secondly, he said that Denning LJ had already found that the notice complied with the 1954 Act. I agree with Mr Lewison that this authority cannot be distinguished in either respect. First, the observations of the court were quite general and did not depend on the fact that it was the tenant who was attacking the validity of its own notice or that there was no issue

that the tenant wanted to renew. The essential part of the reasoning was that, as a matter of form, the request complied with the requirements of section 26 and was therefore valid. Validity involved simply looking at the form: evidence as to the state of mind of the tenant was inadmissible. Secondly, it is not right to say that the part of the judgment of Denning LJ which I cited was obiter. He was dealing explicitly with the question whether the mistake rendered the request invalid. The key words are “once a tenant, whatever his inmost state of mind, has to all outward appearances made a valid request ...” (my emphasis).

27. I agree with Mr Lewison that, if the judge's approach in the present case were correct, then the decision in Sidney Bolsom would have gone the other way because, on the facts found by the trial judge, the section 26 request in that case did not contain the tenant's genuine proposals.
28. Mr Lewison also relies on a passage in the judgment of Slade J in Lloyds Bank Ltd v National Westminster Bank Ltd [1981] 1 EGLR 83. In that case the tenant sought leave to discontinue an application for a new tenancy under the 1954 Act on the grounds that it no longer wanted the tenancy in question. The landlord had opposed the grant of a new tenancy under section 30(1)(f) but then withdrew its opposition. It argued that leave to discontinue should only be granted on terms that the tenant gave an undertaking not to claim compensation under section 37. The judge refused to require such an undertaking as a condition of granting leave to discontinue. An appeal to this court was dismissed. At p.86 of his judgment Slade J said:

“I cannot, however, accept the wider submission that the legislature contemplated that the tenant should never get compensation if his motives for failing to press his possible rights to a new tenancy were merely that he did not want a new tenancy. Section 37(1), as amended, says nothing whatever about the motives which may prompt a tenant either to omit to apply for a new tenancy or to withdraw his application after it has been made. The motives prompting a tenant to take either of these courses, after he has received a landlord's notice under section 25 or section 26(6), relying on one or more of the grounds specified in paragraphs (e), (f) or (g) of section 30, may be many and mixed. I cannot impute an intention to the legislature to withhold compensation from a tenant who complies with all the other conditions of section 37(1) merely because his motives for omitting to apply to the court, or for withdrawing an application when made, may be of a particular nature. The rights to compensation given by the subsection, in circumstances such as those of the plaintiffs in the present case, to a party who withdraws his application and then vacates the premises, are in terms absolute, not qualified by reference to any considerations of motive.”

29. Miss Williamson seeks to distinguish this case. She submits that it is authority for the proposition that, once the procedure for terminating a tenancy has been properly initiated, there should be no investigation of the tenant's motives in the event of a subsequent failure to apply for a new tenancy or withdrawal of an application that has

been made. But, she argues, it says nothing about the conditions that are necessary for initiating the procedure in the first place. I agree that the decision does not deal expressly with the question of what those conditions are. But if the tenant's motives for failing to apply for a new tenancy after receiving a landlord's notice under section 25 or 26(6) are irrelevant to the right to compensation, it is difficult to see why Parliament should have intended that his motives in serving a request for a new tenancy in the first place should be relevant.

30. Miss Williamson relies on Betty's Cafes Ltd v Philips Furnishing Store Ltd [1950] AC 20 in support of the proposition that notices given under the 1954 Act must be given honestly and truthfully. The issue in that case was the validity of a landlord's counter-notice under section 26(6) which relied on section 30(1)(f). In my judgment, it is not relevant to the issue that arises in the present case. Section 30(1)(f) refers explicitly to the landlord's intention. A landlord can only oppose an application for a new tenancy under that provision if he intends to redevelop the premises. I derive no assistance from Betty's Cafes.
31. In my judgment, therefore, on the face of it the words "request" and "proposals" in section 26 should be given an unqualified objective meaning. That accords with the ordinary meaning of the words and is consistent with the law of contractual offers. It is consistent with the decision in Sidney Bolsom and the observations of Slade J in Lloyds Bank. It is also worth pointing out that there is no mention of the tenant's intentions or motives in section 26 or section 37. Where the Act requires an "intention", it expressly says so: see, for example, section 30(1)(f) and (g). It would have been possible for the draftsman to require an intention to take up a new tenancy as a condition of a valid request and/or as a condition of the right to compensation under section 37.
32. The judge drew a distinction between a tenant having formed no intention at all (which would not render the request invalid) and a tenant having positively decided not to take a renewal in any circumstances (which would render the request invalid). The judge was plainly concerned to minimise the implications of his decision. It does not seem that this distinction was a necessary part of his reasoning, but in any event I have some difficulty in accepting it. If a person does not know what his future plans are, how can he be said to intend to take up a new tenancy? If the 1954 Act requires proposals to be realistic in the sense of being genuinely intended, then surely the tenant who has not made up his mind as to whether he wants a new tenancy is as precluded from making a request as is the tenant who has firmly decided that he does not want one.
33. Before I come to the wider considerations to see whether they cast any doubt on the conclusions that I have reached thus far, I need to refer to the Cadogan case. That was a case which concerned the right of a tenant to purchase a long lease under the Leasehold Reform, Housing and Urban Development Act 1993. The tenant served a notice specifying a premium of £100. This was a formal nominal figure. A realistic figure lay between £100,000 and £300,000. The question was whether the insertion of a purely nominal figure invalidated the notice. Section 42(3) of the Act provided that the notice "must ... (c) specify the premium which the tenant proposes to pay in

respect of the grant of a new lease ...” It will be seen at once that the words “which the tenant proposes to pay” are very close to the words “the tenant's proposals”. The Court of Appeal held that the tenant's notice was invalid. In giving the only substantive judgment, Stuart-Smith LJ said at p.61B:

“... I do not consider it is necessary to read any words into section 42(3)(c). The tenant is required to specify the premium that he proposes to pay. He did not do so: he deliberately specified a figure that he did not propose to pay. I do not think the tenant is required to offer his final figure that he may be prepared to go to, but he should, in my view, offer a realistic figure.”

34. But as Mr Lewison points out, that case was concerned with a different Act and so was technically not binding. It was at best only an analogy. It was conceded in the Cadogan case that a notice served under a different part of the 1993 Act (section 13(3)(d)) did require a genuine proposal, and that concession clearly influenced the court to some extent. Further, there were two particular factors which influenced the court in reaching its decision. The first was that, if the landlord failed to serve a counter-notice under the 1993 Act, it was arguable that the court was bound to order the grant of a new lease at the figure specified in the tenant's notice. That was understandably described as a “very harsh result”. It has since been held that what the court said was “arguable” is in fact the correct construction: see Willingale v Globalgrange Ltd [2000] 18 EG 152. The second factor was that the sum proposed by the tenant by way of premium determined the amount of the deposit that was payable. It follows that, as Mr Lewison points out, there were two respects in which the premium proposed by the tenant under the 1993 Act had legal consequences of considerable significance. There are no corresponding provisions in the 1954 Act. The tenant's request and proposals under section 26 have no legal consequences. They do not commit the tenant or the landlord to anything. They are merely the prelude to a possible new tenancy on terms to be agreed or determined by the court. The tenant is not obliged to pursue an application for a new tenancy. If he does make an application and the court orders a new tenancy, the tenant may seek a revocation of the order under section 36(2). In my judgment, therefore, the decision in Cadogan is only of limited assistance in deciding the question of construction that arises in the present case.
35. I turn, therefore, to consider whether there are any wider considerations which cast doubt on what I have said so far as to the meaning of “request” and “tenant's proposals”. The question that arises is whether the meaning that I have ascribed to these words is inconsistent with the plain intent of the 1954 Act as a whole, or whether it involves absurdity or at least real commercial difficulty such that this meaning cannot have been intended by Parliament. In paragraph 108 of his judgment the judge did not point to any commercial or practical difficulty in Thales' interpretation. Rather, he reasoned that it was “inherently unlikely” that Parliament intended that a tenant should be entitled to compensation by misrepresenting his intention as regards his desire for a new tenancy. The judge did not expand on this part of his reasoning. It seems that he treated it as a self-evidently true proposition: so

obvious that it went without saying. In my judgment, he was wrong to do so.

36. It is useful to consider some case examples.
37. Case A: the tenant learns that his landlord intends to oppose the renewal of a tenancy on the grounds of intention to redevelop. He learns of this 18 months before the end of his current tenancy, i.e. before the earliest date on which he could serve a request under section 26. The tenant then finds an ideal alternative site which he takes. He would not have taken that site, and incurred all the expense and disruption to his business entailed in a move, if he had not been told of the landlord's intention to oppose the grant of a new tenancy. The tenant then serves his request under section 26.
38. Case B: the tenant finds alternative accommodation before the end of the current tenancy and decides to move. He then discovers that the landlord would oppose the grant of a new tenancy on the grounds of his intention to redevelop. On learning this, the tenant serves a request under section 26.
39. Case C: the facts are as in case B, except that shortly after the tenant serves his request for a new tenancy the alternative accommodation is withdrawn from the market. The tenant is desperate and decides that he wants a renewal of his current tenancy after all. Moreover, he decides to contest the validity of the landlord's ground of opposition, saying that the landlord's plans cannot be implemented because they will not receive planning permission. At court, the landlord proves his intention and the application for a new tenancy is dismissed.
40. Case D: the tenant has the intention to take up a renewed tenancy at the time when he serves his request. The landlord serves a counter-notice indicating opposition on the grounds of intention to redevelop. The tenant then changes his mind for reasons which are wholly unconnected with the landlord's response.
41. These cases show that the construction rejected by the judge does not produce results which it can safely be concluded could not have been intended by Parliament. Take case A, which substantially reflects the facts in the present case. I suggest that most people would say that it was unfair on the tenant that he should be deprived of compensation under section 37. There is no question of a windfall in favour of the tenant. It might be said that, on the judge's interpretation, case A yields a windfall to the landlord, since it is pure chance that the tenant happens to find the alternative accommodation before he is able to request a new tenancy. The statutory purpose that lies behind section 37 is that a tenant should be compensated where he would be unable to renew his tenancy because of opposition by the landlord on one of the grounds stated in section 30(1)(e)(f) or (g). In case A, the tenant satisfies that purpose. The only reason why he secured alternative accommodation was that he knew that an application for a new tenancy under section 24 would fail on the ground stated in section 30(1)(f). It is true that case B may be said to involve a windfall to the tenant. But what about case C? Is the payment of compensation to the tenant in the circumstances of this example so absurd, or even surprising, that one can safely say that Parliament cannot have intended it? In my view, no. And then what about case D?

In my view, it is anomalous, if not perverse, to allow the tenant compensation if he happens to want a new tenancy when he serves a request, even if he changes his mind immediately afterwards, and yet to refuse compensation if the tenant does not want a new tenancy at the date of his request, although he changes his mind on the following day. Far from casting doubt on the conclusion that I expressed earlier as to the meaning of “request” and “tenant's proposals”, these examples support it. They certainly do not cast any doubt on it, and they lend no support to the judge's view that it is inherently unlikely that Parliament intended such a meaning.

42. Mr Lewison makes the further point that, if the procedure for terminating the tenancy is initiated by the landlord serving a notice under section 25, relying on grounds specified in section 30(1)(e)(f) or (g), the tenant is entitled to compensation irrespective of his intention. It would be anomalous for the entitlement to compensation to depend on who initiated the procedure. I agree. Miss Williamson submits that there is no anomaly: there is the important difference between a termination by notice under section 25 and by request under section 26 that, if a landlord terminates under section 25, he controls the timing of the process. That is true to a certain extent, but it does not provide a rational explanation for requiring an investigation of the tenant's state of mind in the one case but not the other. In my view, this provides yet further support for the meaning that I have given to “request” and “tenant's proposals”.
43. To summarise, there is no justification for reading words into section 26(3) as the judge did. Words should be read into a statute only if there is some necessity to do so. The judge thought that it was necessary to do so because he believed that it was inherently unlikely that Parliament intended the words to be given their ordinary unqualified meaning. For the reasons that I have sought to give, I believe that he was wrong. The prospect of an inquiry into the tenant's state of mind is not one that the 1954 Act contemplates. The inclusion of proposals in a section 26 request is a statutory formality and does not require the tenant to have any particular intention. It follows that evidence of the tenant's state of mind when he serves his request for a new tenancy is inadmissible because it is legally irrelevant. It should not have been admitted in the present case. I would allow this appeal.
44. **LADY JUSTICE HALE:** I agree.
45. **LORD JUSTICE WALLER:** I also agree.

Order: appeal allowed with costs; as regards proceedings below, tenant to pay the costs of the claim on the standard basis throughout, and the landlord to pay the costs of the Part 20 counterclaim on the standard basis throughout; permission to appeal to the House of Lords refused.