

Pease v Carter and another [2020] EWCA Civ 176

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07 April 2020

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Facts

A landlord (L) served a notice on his tenants (T) under section 8 of the Housing Act 1988 (the 1988 Act) giving notice of proceedings for possession. Under section 8, the earliest date for when proceedings may begin must be specified in the notice and this cannot be earlier than two weeks from the date the notice is served.

The notice was given on 7 November 2018 but mistakenly said that court proceeding would not begin before 26 November 2017.

The County Court determined that L's defective notice could not be saved by applying the reasonable recipient test in *Mannai Investment Co Ltd v Eagle Star Life Assurance Co Ltd* [1997] UKHL 19 (the Mannai principle). Under the Mannai principle, minor defects in a notice will not invalidate the notice if the reasonable recipient, with knowledge of the factual and contextual background, would not be misled by the error.

Issue

Did the Mannai principle apply to save L's defective notice?

Decision

L's notice should be construed in accordance with the Mannai principle. In this case, given that the covering letter with the notice had referred to the correct date, the reasonable recipient would appreciate that L had intended to say that proceedings would not be commenced before 26 November 2018 and had simply made an obvious error in his notice. The notice was therefore valid.

Point to note/consider

Whilst the Mannai case related to a defective contractual notice (a break notice), there is authority that the principle can be extended to statutory notices. However, that will only be the case if the notice complies with the strict requirements of the relevant statutory provision. That was the basis on which the Court of Appeal was able to distinguish this case from an earlier 2003 case which had held that the Mannai principle did not apply to a notice served under the 1988 Act. In that 2003 case, the notice given had to specify as a date for possession the last day of a period of the tenancy and had got that date wrong (the notice required possession on 4 January 2003, whereas the last day of the period was 3 January).

In this case, a reasonable recipient would not construe the notice as it read because the date specified was an impossibility and inconsistent with covering correspondence. The Mannai principle could correct the notice and the notice would then comply with the relevant statutory requirement.

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