

Handing back an empty shell of a building did not prevent a tenant from exercising a break clause

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Capitol Park Leeds Plc and another v Global Radio Services Ltd [2021] EWCA Civ 995

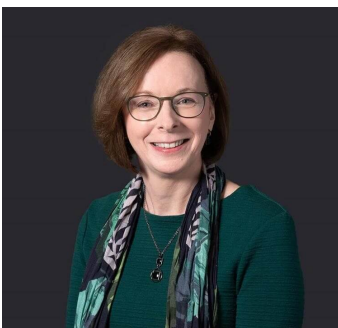
The tenant had a right to break its lease on condition that it delivered vacant possession of the property to the landlord. The tenant had stripped out significant elements of the base build and landlord's fixtures in the property and the landlord argued that, in returning the property minus those elements, it had not complied with the vacant possession condition.

Whilst the High Court agreed, the Court of Appeal did not. It ruled that as long as the property was returned free of people, chattels and interests, vacant possession had been provided (meaning the break right had been successfully operated).

Whilst tenants should look to resist break clauses which are conditional on the delivery of vacant possession, such wording is still fairly common and this decision will come as welcome news to tenants. Whilst removing too much from a property could still be a breach of the terms of a lease, a landlord's remedy is damages – it will not of itself prevent the successful operation of a break clause.

[Full case summary →](#)

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