
The Ticket to Solving the Stub Rent Dilemma

Date: 02/18/09

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The *Stone Barn Manhattan LLC (fka Steve & Barry's Manhattan LLC)* bankruptcy case recently decided by the U.S. Bankruptcy Court for the Southern District of New York provides a sensible solution resolving the split of authority on how a debtor must prorate rent for the month it files for bankruptcy protection. The split of authority results from ambiguity in Bankruptcy Code §365(d)(3) on how to handle the typical situation in which a lessee files for bankruptcy protection in the middle of the month under a lease that calls for payment of rent on the first day of the month. The issue is whether §365(d)(3) requires prorating the "stub rent" for the first month of the bankruptcy case between the pre- and postpetition periods, or whether the debtor must pay the entire first month's rent as a "stub rent" postpetition administrative expense. "Stub rent" is the rent due for the interim period between the petition date in the bankruptcy case and the end of the debtor's first month in bankruptcy.

Attorneys

- Joel H. Levitin
- Richard A. Stieglitz Jr.