

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
 )  
WILLIAM S. GRAHAM, ) CASE NO. 10-20473 JPK  
 ) Chapter 7  
Debtor. )

ORDER GRANTING MOTION FOR RELIEF FROM STAY

On April 8, 2010, Graham Trucking & Excavating, Inc. filed a Motion for Relief from Stay and Abandonment, requesting relief from the automatic stay of 11 U.S.C. § 362(a) to pursue an eviction action with respect to the debtor in relation to property located at 14445 Morse Street, Cedar Lake, Indiana. The debtor filed an objection to that motion on April 22, 2010. A hearing on the motion and on the objection was held on May 20, 2010. The debtor appeared by counsel Brian M. Smith; Graham Trucking & Excavating, Inc. appeared by counsel Andrew L. Kraemer.

The court recited its findings of fact and conclusions of law on the record at the hearing. For the reasons thus stated, the court determines that the motion for relief from stay should be granted, and that to the extent the motion seeks abandonment, it should be denied as moot.

IT IS ORDERED that Graham Trucking & Excavating, Inc. is granted relief from the automatic stay of 11 U.S.C. § 362(a) to proceed with an action in rem with respect to that creditor's leasehold interests with the debtor, with the extent of those interests and any remedy available as a result of those interests being determined by a state court.

IT IS FURTHER ORDERED that to the extent the creditor's motion seeks abandonment, that motion is denied.<sup>1</sup>

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<sup>1</sup> 11 U.S.C. § 365(d)(1) provides that if the Chapter 7 Trustee has not assumed or rejected an executory contract or unexpired lease of residential real property within 60 days of the order for relief, then that executory contract or lease is deemed rejected. 11 U.S.C. § 365(g)(1) provides that if such contract or lease has not been assumed under § 365 by the Trustee, the rejection of the lease effected by 11 U.S.C. § 365(d)(1) constitutes a breach of the contract/lease immediately before the date of the filing of the petition. The record in this case

Dated at Hammond, Indiana on May 26, 2010.

/s/ J. Philip Klingeberger  
J. Philip Klingeberger, Judge  
United States Bankruptcy Court

Distribution:  
Debtor, Attorney for Debtor  
Trustee, US Trustee  
Attorney for Creditor

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establishes that the Trustee did not assume the lease at issue, and thus there is no property interest of the debtor in relation to the lease to be abandoned from the estate.