



ORDERED in the Southern District of Florida on April 20, 2010.

A handwritten signature in black ink, appearing to read "Robert A. Mark". The signature is written over a horizontal line.

**Robert A. Mark, Judge
United States Bankruptcy Court**

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA**

In Re: TIFFANY BAIN
SS#: XXX-XX-9141

Case No. 10-11316-RAM
Chapter 7

Debtor
_____ /

**ORDER DENYING CREDITOR ROYAL AMERICAN MANAGEMENT'S
MOTION FOR RELIEF FROM STAY, AND INSTRUCTING THE DEBTOR
TO PAY POST-PETITION RENT**

THIS CAUSE came before the Court upon Creditor Royal American Management's Motion for Relief from Stay. On April 8, 2010, the Court conducted a hearing on the Motion. For the reasons stated below, Creditor Royal American Management's Motion for Relief from Stay is denied in part and granted in part, and the Debtor is ordered to pay post-petition rent to the Creditor by April 22, 2010.

Movant/Creditor, Royal American Management (hereafter "Royal American" or "Creditor"), filed an eviction in county court against the debtor in December 2009 ("State Court Action"). Debtor filed a Chapter 7 Bankruptcy on January 21, 2010, and listed Royal American as a Creditor.

Royal American moved for relief from stay in order to proceed with the county court eviction and gain possession of the property.

Royal American manages Wynwood Apartments, where the Debtor leases a residential unit. Wynwood Apartments is owned by Miami-Dade County. The parties agree that the residential property is government-owned and subsidized. Royal American is a contractor of Miami-Dade County with the authority to carry out eviction proceedings against tenants at Wynwood Apartments on behalf of Miami-Dade County.

It is the Court's conclusion that because the debtor rents a government-owned unit, the protections of 11 U.S.C. § 525(a) apply. The effect of § 525(a) on the lease is that the landlord may not terminate the tenancy in the event that the pre-petition rent is discharged through the Chapter 7 Bankruptcy. Royal American may not discriminate against the Debtor on the basis of discharging her pre-petition rent. *See In Re: Cheryl Kelly*, 356 BR 899 (Bankr.S.D.Fla. 2006). *See also In re Curry*, 148 B.R. 966 (S.D.Fla. 1992); *In re Batista*, Fla. L. Weekly Fed. B 305 (Bankr.S.D.Fla. 2005). Therefore, the Motion for Relief from Stay to prosecute the state court eviction, or to seek possession of the unit for failure to pay pre-petition rent, is denied.

ORDERED AS FOLLOWS:

1. Post-petition rent for February, March and April 2010 must be paid by the Debtor to the Creditor by April 22, 2010. If the post-petition rent is not paid by that date, the Creditor may file an Affidavit of Non-Compliance and this Court will grant Creditor an Order of Relief from Stay from the Bankruptcy Court, so that Creditor may proceed with its eviction in the State Court Action.
2. Beginning in May 2010, Debtor shall pay her monthly rent directly to Royal American as it becomes due. If the pre-petition rent is discharged through the bankruptcy, the

Debtor may remain in possession of the unit as long as she complies with the lease agreement, including paying all her post-petition rent to Royal American as it becomes due. If there are future post-petition violations of the lease, the Creditor may seek legal remedies to enforce the lease agreement.

3. Creditor Royal American Management's Motion for Relief from Stay is denied in part as to the request to proceed with the state court eviction for pre-petition rent.

4. Creditor Royal American Management's Motion for Relief from Stay is granted in part in that the Creditor may enforce the terms of the lease agreement in all future matters unrelated to the pre-petition rent.

5. The Debtor is ordered to pay post-petition rent for February, March, and April 2010 to Royal American no later than April 22, 2010.

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Respectfully submitted by:

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Service via U.S. mail:

The party submitting this order shall serve a copy of the signed order on all parties listed below and file with the court a certificate of service conforming with Local Rule 2002-1(F).

Royal American Management
c/o Kevin Fabrikant, Esq.
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