

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MINNESOTA**

In re:	Jointly Administered Under Case No. 17-30673 (MER)
Gander Mountain Company, Overton's, Inc.,	Case No. 17-30673 Case No. 17-30675
Debtors.	Chapter 11 Cases

**DEBTORS' LIMITED OPPOSITION TO MOTION OF SECOND THING LLC FOR AN
ORDER ALLOWING ADMINISTRATIVE EXPENSE CLAIMS FOR UNPAID POST-
PETITION RENT, INSURANCE AND REAL ESTATE TAXES**

Gander Mountain Company and Overton's, Inc. (the "Debtors") submit this memorandum in limited opposition to the motion for allowance of administrative expense claims (the "Motion") filed by Second Thing LLC (the "Landlord").

ANALYSIS

The Debtors do not object to the allowance of an administrative expense claim pursuant to 11 U.S.C. § 503(b)(1)(A) for post-petition March rent.¹ Instead, the Debtors object to the Landlord's calculation of its administrative expense claim as set forth in the Motion. The differences between the Landlord's and the Debtors' calculations of the administrative expense claims are as follows:

¹ The Debtors agree with the Landlord that the Eighth Circuit has adopted the billing date approach for administrative expense claims arising from 11 U.S.C. § 365(d)(3). *See In re Burival*, 613 F.3d 810, 812 (8th Cir. 2010); *see also In re Burival*, 406 B.R. 548, 552-53 (B.A.P. 8th Cir. 2009). Based on the billing date approach, the Landlord is not entitled to an administrative expense claim under 11 U.S.C. § 365(d)(3) for rent from the Filing Date through the end of March.

	Landlord's Calculation	Debtors' Calculation
Stub Rent	\$16,083.06	\$15,352.02
Common Area Maintenance		\$743.92
Insurance	\$4,771.28	\$197.58
Real Estate Taxes		\$3,612.90
Sub total	\$20,854.34	\$19,906.42
Less Pro Rata Payment	\$0.00	(\$4,927.85)
TOTAL	\$20,854.34	\$15,135.14

The largest difference between the two calculations is that the Landlord's calculation does not account for the pro rata distribution that the Debtors made to the Landlord. Pursuant to the Court's final order approving the debtor-in-possession financing (the "Final DIP Order") [Docket No. 443], the Debtors funded a \$1,600,000 reserve (the "Stub Rent Reserve") to be used for payment to holders of allowed unpaid administrative expense claims for post-petition March rent on a pro rata basis. As directed by the Final DIP Order, the Debtors have distributed the funds in the Stub Rent Reserve. Pursuant to this procedure, which is set forth in the Final DIP Order, the Debtors have already paid the Landlord \$4,927.85 in partial payment of its administrative expense claim. The Landlord's calculation of its administrative expense claim in the Motion does not include this distribution, which should be deducted from the amount of its allowed claim.

CONCLUSION

The Debtors object to the Landlord's calculation of its administrative expense claim. The Debtors are in discussions with the Landlord and file this objection to preserve their rights in the event the parties are not able to reach agreement prior to the hearing.

Dated: August 11, 2017

/e/ Steven R. Kinsella

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ATTORNEYS FOR THE DEBTORS

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VERIFICATION

I, Timothy G. Becker, the Executive Vice President of Lighthouse Management Group, Inc., the Chief Restructuring Officer of the Debtors, declare under penalty of perjury that the facts set forth in the preceding limited objection are true and correct according to the best of my knowledge, information, and belief.

Dated: August 11, 2017

Signed: 

Timothy G. Becker