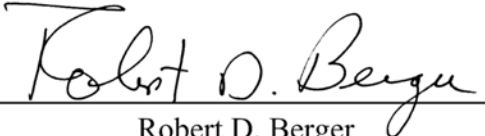


**The relief described hereinbelow is SO ORDERED.**

**SIGNED this 16th day of January, 2025.**



  
Robert D. Berger  
United States Bankruptcy Judge

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF KANSAS**

In re:

**SHANE ANTHONY DOTSON,**

Debtor.

Case No. 24-21493

Chapter 13

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**ORDER**

This matter comes before the Court on a certification filed by debtor Shane Anthony Dotson and the objection thereto filed by creditor/lessor Pebblebrook Apartments, LLC.<sup>1</sup> All citations in this order are to Title 11, United States Code (the "Bankruptcy Code").

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<sup>1</sup> ECF 14 (certification); ECF 22 (objection).

Prior to the filing of this case, Pebblebrook obtained a judgment against Dotson for possession of leased residential property. When Dotson filed his bankruptcy petition, an automatic stay of “any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate” went into effect. *See* 11 U.S.C. § 362(a)(3). However, under § 362(b)(22),

the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential property in which the debtor resides as a tenant under a lease or rental agreement and with respect to which the lessor has obtained before the date of the filing of the bankruptcy petition, a judgment for possession of such property against the debtor . . .

is excepted from that stay. *See* 11 U.S.C. § 362(b)(22). The § 362(b)(22) stay exception goes into effect 30 days after the petition is filed if the debtor files with the petition and serves upon the lessor a certification under penalty of perjury that:

(A) under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment for possession was entered; and

(B) the debtor (or an adult dependent of the debtor) has deposited with the clerk of the court, any rent that would become due during the 30-day period after the filing of the bankruptcy petition.

11 U.S.C. § 362(l)(1).<sup>2</sup> However, if the debtor indicates on the petition that there was a judgment for possession of the residential real property but does not file the

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<sup>2</sup> If, within the 30-day period after the filing of the bankruptcy petition, the debtor complies with § 362(l)(1) and files with the court and serves upon the lessor a further certification that the debtor has cured, under applicable nonbankruptcy law, the entire monetary default that gave rise to the judgment under which possession

required certification, then the § 362(b)(22) stay exception applies immediately upon failure to file such certification; the automatic stay under § 362(a)(3) does not apply as to the leased premises, and the lessor may complete the process to recover full possession of the property. *See* 11 U.S.C. § 362(l)(4)(A).

In this case, Dotson's petition indicated that his landlord had obtained an eviction judgment against him.<sup>3</sup> However, Dotson did not file a certification that he had deposited 30 days' rent with the clerk of court.<sup>4</sup> Therefore, § 362(b)(22)'s exception to § 362(a)(3)'s automatic stay applied immediately upon Dotson's failure to file that certification, and Pebblebrook does not need to obtain relief from the stay provided by § 362(a)(3) to complete the process to recover full possession of the property.

IT IS SO ORDERED.

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is sought by the lessor, then the § 362(b)(22) stay exception will not apply unless ordered to apply by the court under § 362(l)(3). *See* 11 U.S.C. § 362(l)(2).

<sup>3</sup> *See* ECF 1 ¶ 11.

<sup>4</sup> *See* ECF 14 (checking right-to-cure box but leaving deposit-of-rent box blank).