

1  
2  
3 UNITED STATES BANKRUPTCY COURT  
4 EASTERN DISTRICT OF CALIFORNIA  
5 SACRAMENTO DIVISION  
6

7 In re )  
8 ) Case No. 12-37035-A-7  
9 APRIL DAWN GIANELLI, )  
10 )  
11 Debtor. )  
12 )  
13 )

14 **MEMORANDUM**

15 When the bankruptcy petition was filed on September 21,  
16 2012, the debtor certified pursuant to 11 U.S.C. § 362(1)(1)(A)  
17 that the lessor of residential real property to her had obtained  
18 a judgment for possession of the property prior to the filing of  
19 the bankruptcy case. However, that certification was defective  
20 on its face because it was not accompanied by a deposit paid to  
21 the clerk of this court consisting of the rent that would become  
22 due during the next 30 days. See 11 U.S.C. § 362(1)(1)(B).

23 On October 3, the debtor paid \$276.03 to the clerk of the  
24 court with an unsworn statement indicating that this is the  
25 amount necessary to cure the default under her lease or rental  
26 agreement.

27 There are three problems with this payment to the clerk.  
28 First, this amount should have been paid directly to the lessor  
within 30 days after the filing of the bankruptcy case. See 11  
U.S.C. § 362(1)(1)(B)(2). Second, the deposit due to the clerk

1 was the rent that was owed for the 30 days after the filing of  
2 the petition. This was due when the bankruptcy case filed. The  
3 debtor has failed to make the required initial deposit. Third,  
4 the debtor failed to file the second certification required by 11  
5 U.S.C. § 362(1)(2) attesting that she had cured the entire  
6 monetary default that gave rise to the judgment for possession in  
7 favor of the lessor. The unsworn statement is not such a  
8 certification.

9 Therefore, by separate order the clerk shall return the  
10 \$276.03 to the debtor, not to the lessor. By virtue of the  
11 failure to comply with 11 U.S.C. § 362(1), 11 U.S.C. § 362(b)(22)  
12 is applicable.

13 Dated:

14 By the Court

15  
16 

---

Michael S. McManus, Judge  
17 United States Bankruptcy Court  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28