

In re AEROFLORAL, Debtor.

Case No. 01-16367-BKC-RAM

Landlord owned certain commercial warehouse space which it leased to the Debtor prior to the filing of the case. In its Request for Payment of Administrative Rent for the Time Prior to Abandonment, the Landlord sought payment of rent as a chapter 7 administrative expense for the postpetition period running from the date of the conversion of the case to chapter 7, which occurred post-rejection of the Lease, through the date on which the chapter 7 trustee was compelled to abandon equipment stored on the Premises. The analysis of whether “actual benefit” was provided to a debtor is one which varies according to the facts of each case. The protection and storage of the Debtor’s personal property constituted “use” which provided “actual” benefit to the Debtor. An ultimate recovery to the estate through a sale is not and should not be the test for determining an administrative expense obligation. The Court found that there is a strong presumption in favor of the agreed to contract rate as to the valuation of the “use and benefit”.