IN THE SUPREME COURT OF THE STATE OF NEVADA

LARRY D. GOLDSTEIN, M.D., LIMITED,
Appellant,
vs.
VALLEY HEALTH SYSTEMS LLC, A DELAWARE LIMITED LIABILITY COMPANY,
Respondent.

No. 43590

FILED

MAR 07 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court default judgment in a lease agreement dispute. Eighth Judicial District Court, Clark County; Sally L. Loehrer, Judge.

Appellant Larry D. Goldstein, M.D., Limited (the Corporation) filed a voluntary petition for bankruptcy, seeking relief under Chapter 7 of the Bankruptcy Code.[1] On Schedule G of its petition, the Corporation listed three unexpired leases under which respondent Valley Health Systems LLC (Valley), or its subsidiary, was the lessor, and which are at issue: a lease for office space at 4275 Burnham Avenue, Suite #280 in Las Vegas, Nevada (lease #280); a sublease for office space at 4275 Burnham Avenue, Suite #128 (sublease #128); and a lease for office equipment. The Corporation listed the rent arrearages on the respective leases as $7,887.00, $12,673.96, and $2,585.81, for a total of $23,146.77. However, on its summary of schedules, the Corporation failed to list any liabilities

[1]We have recited only those facts that are necessary to our disposition of appellant's contentions.



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from Schedule G. On Schedule F, the Corporation listed a subsidiary of Valley as a creditor with a $12,000 "contingent, unliquidated, and disputed" claim.

The bankruptcy court subsequently dismissed the Corporation's petition, after which Valley filed the underlying lawsuit seeking rent arrears, interest, costs, and attorney fees stemming from the Corporation's failure to pay the amounts listed on Schedule G. The Corporation failed to answer the complaint and the district court entered default against the Corporation. Valley then filed an application for default judgment. The Corporation opposed the application, contending that Larry Goldstein, individually, and not the Corporation, terminated lease #280 and entered into sublease #128. Following a noticed prove-up hearing, the district court granted Valley's application in the amount of $23,146.77 for the total sum owed under the leases, $1,144.62 for pre-judgment interest, $4,800.00 in attorney fees, and $377.70 in costs. The district court based its judgment on the conclusive presumption of liability and amount of damages under NRS 47.240(3), arising from the Corporation's under oath admission that it was the tenant under the two office leases and the equipment lease, and its admissions on the amount of the rent arrearages.

When reviewing an appeal from a default judgment,[2] we give deference to the district court's factual findings therein so long as they are

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[2]See Hanley v. Tobler, 73 Nev. 214, 216, 313 P.2d 1110, 1111 (1957) ("An appeal from a default judgment will lie as to determinations made by the trial court upon issues there raised and presented for its determination.").

not clearly wrong and are supported by substantial evidence from the prove-up hearing.[3] Substantial evidence has been defined as evidence that "a reasonable mind might accept as adequate to support a conclusion."[4]

On appeal, the Corporation contends that its statements on Schedules G and F do not amount to admission under oath that it was the tenant under the two office leases and the equipment lease, and that it owed $23,146.77 in rent arrearages under said leases. The Corporation argues that substantial evidence does not otherwise support a finding that the Corporation owes this sum.

We disagree. Initially, we note that the Corporation failed to file a motion to set aside the judgment pursuant to NRCP 55(c) and NRCP 60(b). Further, while the district court's conclusion regarding the presumption that the Corporation admitted to owing a debt to Valley is arguably incorrect, substantial evidence otherwise supports the district court's finding that the Corporation was the lessee under the three leases and owed this debt to Valley. Specifically, the Corporation never disputed entering into lease #280. The termination agreement and rider presented to the district court by the Corporation verify that $7,887.00 was owed in rent arrearages on this lease, and the Corporation failed to present any evidence contradicting that it owed this sum. The Corporation also never

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[3]See Lader v. Warden, 121 Nev. 682, 120 P.3d 1164 (2005); NOLM, LLC v. County of Clark, 120 Nev. 736, 100 P.3d 658 (2004); see also McKinzie v. Nev. Livestock Prod. Credit, 107 Nev. 936, 822 P.2d 1113 (1991).

[4]Edison Co. v. Labor Board, 305 U.S. 197, 229 (1938), quoted in First Interstate Bank v. Jafbros Auto Body, 106 Nev. 54, 56, 787 P.2d 765, 767 (1990).

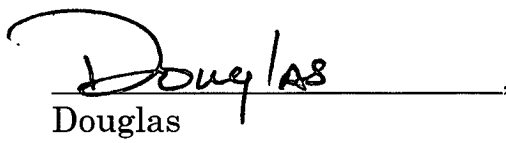
disputed that it entered into the equipment lease and Valley submitted a copy of the accounts receivable for this lease which indicated that the Corporation owed $2,585.81.

We also conclude that substantial evidence supports the district court's conclusion that the Corporation, and not Larry Goldstein, individually, entered into sublease #128. Specifically, Valley submitted to the district court a copy of the Corporation's check register, which the Corporation filed with the bankruptcy court. This check register indicates that the Corporation, and not Larry Goldstein, paid the rent for sublease #128. The affidavit of Dianne Gregory, Assistant Administrator of Physician Services for Desert Springs Hospital, also verifies that the Corporation entered into this sublease. With respect to the amount owed on this sublease, Valley submitted to the district court a copy of the rent rolls for sublease #128 indicating that the amount owed was $12,673.96. Based on the foregoing, we conclude that substantial evidence supports the district court's finding that the Corporation entered into the leases at issue here and owed a total of $23,146.77 in rent arrearages on these leases. Finally, we conclude that the district court did not abuse its

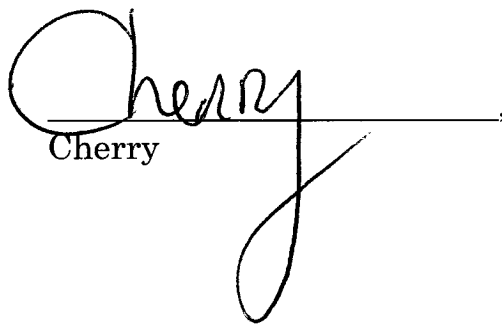
discretion in awarding attorney fees pursuant to the attorney fees provision of the master lease.[5] Accordingly, we

ORDER the judgment of the district court AFFIRMED.

_____, J.
Gibbons



_____, J.
Douglas



_____, J.
Cherry

cc: Hon. Sally L. Loehrer, District Judge
Robert F. Saint-Aubin, Settlement Judge
Irsfeld & Associates, LLC
Cotkin, Collins, & Ginsburg
Eighth District Court Clerk

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[5]See McCarran Int'l Airport v. Sisolak, 122 Nev. ___, 137 P.3d 1110 (2006) (reviewing district court's decision to award attorney fees provided for by contract for an abuse of discretion). We have considered the Corporation's other arguments and conclude they lack merit.