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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

WALTER N. MARKS, INC.,

Plaintiff and Respondent,

v.

BUCATO, LLC,

Defendant and Appellant.

B267019

(Los Angeles County
Super. Ct. No. BC584545)

APPEAL from a judgment of the Superior Court of Los Angeles County.
Rafael A. Ongkeko, Judge. Affirmed.

Duringer Law Group and Eric J. Bautista for Defendant and Appellant.

Cox, Castle & Nicholson and Perry D. Mocciaro for Plaintiff and Respondent.

Following the alleged nonpayment of rent on a lease by defendant and appellant Bucato, LLC (the tenant), plaintiff and respondent Walter N. Marks, Inc. (the landlord) filed an action for unlawful detainer against the tenant. After a court trial, judgment was entered in favor of the landlord. Specifically, the landlord was entitled to possession of the premises and monetary damages in the amount of \$141,841.82. The tenant timely appealed.

On February 9, 2016, the landlord filed a motion for dismissal, as moot, of that portion of this appeal appealing from the termination of lease and award of possession of the subject premises in the underlying unlawful detainer action. No timely opposition was filed. On February 29, 2016, we granted the landlord's motion; our order was filed March 3, 2016. According to our order, the only portion of the appeal currently pending is the award of damages.

On March 11, 2016, the tenant filed a "motion for order vacating court's ruling on [the landlord's] unopposed motion for partial dismissal of appeal and opposition to [the landlord's] motion for partial dismissal of appeal." The landlord opposed that motion. On March 28, 2016, we denied the tenant's motion.

On April 1, 2016, the tenant filed its opening brief in this appeal. According to the tenant, the trial court's entry of judgment for unlawful detainer in favor of the landlord is not supported by substantial evidence. Because the "Trial Record does not contain substantial evidence to support the Trial Court's Judgment of unlawful detainer against the [tenant, . . .] the judgment for unpaid rent and holdover damages awarded in such judgment . . . should be overturned." Because the tenant's challenge to the damages award (the only pending issue on appeal) hinges on its challenge to the entire judgment, which, pursuant to our earlier order, has been dismissed, there is nothing for us to review.

DISPOSITION

The judgment is affirmed. The landlord is entitled to costs on appeal.

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_____, Acting P. J.
ASHMANN-GERST

We concur:

_____, J.
CHAVEZ

_____, J.
HOFFSTADT