

IN THE CIRCUIT COURT FOR THE
NINETEENTH JUDICIAL CIRCUIT IN AND
FOR ST LUCIE COUNTY, FLORIDA.
APPELLATE DIVISION

Circuit Case No. 19-AP-12
Lower Tribunal No. 19-CC-248

NAKIA BROWN,

Appellant,

v.

Not final until time expires for filing motion
for rehearing, and if filed, disposed of.

ROSEANN BROWN,

Appellee.

Decision filed February 4, 2020.

Appeal from the County Court for St. Lucie County; Edmond Alonzo, Judge.

Nakia Brown, pro se, Fort Pierce, for appellant.

Roseann Brown, pro se, Port St. Lucie, for appellee.

AMENDED¹ OPINION

METZGER, J.

Nakia Brown (“N. Brown”) appeals the final judgment of eviction by default entered in favor of Roseann Brown (“R. Brown”). N. Brown asserts that the trial court improperly entered the final judgment of eviction. We agree and reverse.

R. Brown, as landlord, entered into a residential lease with N. Brown, as tenant, for a one year term (the “Lease”). The Lease obligated N. Brown to pay R. Brown rent in the amount of \$1,300 per month. On January 25, 2019, R. Brown filed a complaint for eviction alleging N. Brown failed to pay the January 2019 rent as required by the Lease (the “Complaint”). Prior to the filing of the Complaint, R. Brown posted the three-day notice by landlord to tenant per section 83.56(3), Fla. Stat. (2019) (the “Notice”). N. Brown responded to the Complaint alleging full

¹ This opinion is amended solely to remove the “per curiam” reference, which was a scrivener’s error.

payment of the January 2019 rent due under the Lease, before the posting of the Notice. Additionally, N. Brown deposited \$1,300 (one month's rent pursuant to the Lease) into the court registry. Subsequently, the trial court issued an order setting the eviction hearing and directing the clerk to disburse "forthwith" to R. Brown the \$1,300 deposited into the court registry by N. Brown. The clerk complied with the court's order and disbursed the court registry deposit of \$1,300 to R. Brown.

On February 19, 2019, prior to the commencement of the court ordered eviction hearing, N. Brown, along with her counsel, and R. Brown entered into a "full settlement" agreement "of all claims in this matter" (the "Full Settlement Agreement"). The court approved the Full Settlement Agreement by signing an order entitled "Stipulation and Settlement Agreement" (the "Settlement Order"). Per the Full Settlement Agreement: \$400 (security deposit) was to be deposited by N. Brown into TD Bank acct. 5755 on or before 2/22/19; rent of \$1,300 was to be deposited by N. Brown into TD Bank acct. 5755 before 6pm on 3/1/2019; rent was to be paid by N. Brown no later than the 3rd of every month without a late penalty; N. Brown was to pay the last month's rent when due; and, the \$100 that remained in the court registry was to be disbursed forthwith to R. Brown. The court, within the Settlement Order, retained jurisdiction to enforce the terms of the Full Settlement Agreement. Specifically, the Settlement Order executed by the trial judge stated that if N. Brown failed "to abide by the **terms of this agreement** and upon presentation of an affidavit of **nonpayment** to the clerk", R. Brown "is entitled to a default judgement in the **amount** agreed upon above, plus court costs, less any amount paid." (Emphasis added). The trial court, per the Settlement Order, did not retain jurisdiction to enter a judgment of eviction/possession upon default of the Full Settlement Agreement, but it did retain jurisdiction to enter a money default judgment.

On April 15, 2019, R. Brown filed an affidavit of non-payment (the "Affidavit"). R. Brown attested, within the Affidavit, that N. Brown "failed to make payment of money due" to R. Brown "in the manner provided in the" Stipulation and Settlement Agreement and the money due to R. Brown per the Stipulation and Settlement Agreement was "\$325 damages". Within an amended Affidavit, R. Brown stated she would "like to evict" N. Brown "as soon as possible". Shortly thereafter, N. Brown filed a motion to dismiss the Affidavit alleging full payment of rent and objecting to R. Brown's request for eviction.

On April 23, 2019, the trial court issued, in chambers and without a hearing, a final

judgment of eviction by default (the “Final Eviction Judgment”). The Final Eviction Judgment stated, among other things, the following: “this cause having been stipulated to and” R. Brown “having filed” the Affidavit and “the Court finding that the Defendant(s) has defaulted upon the payments set forth in” the Full Settlement Agreement, R. Brown “is entitled to judgment for **possession** against” N. Brown; R. Brown “is to be put into possession of the premises” described in the Lease “on or after 4/30/19”. (Emphasis added).

After issuance of the Final Eviction Judgment, N. Brown filed a motion for reconsideration stating she was not in default of the Full Settlement Agreement. N. Brown also again deposited \$1300 into the court registry. This appeal ensued.

Upon review of the record, it is clear that R. Brown and N. Brown entered into a full and complete settlement of all issues pending at the trial court level when they executed the Full Settlement Agreement. The court approved and signed off on the specific terms of the Full Settlement Agreement via the Settlement Order and as such, retained jurisdiction to enforce the Full Settlement Agreement only. Nowhere within the Full Settlement Agreement or the Settlement Order was it mentioned that the parties agreed R. Brown would be entitled to a final order of eviction (possession) upon presentation of an affidavit of nonpayment. The Full Settlement Agreement was clear and unambiguous on its face, providing that if N. Brown failed to abide by the terms of the Full Settlement Agreement, R. Brown would be entitled to a default money judgment in the amount “agreed upon” in the Full Settlement Agreement. If the language of a settlement agreement is clear and unambiguous, courts may not modify the agreement and the express terms of the settlement agreement control. *Postma, LLC, v. Baker*, 276 So. 3d 828 (Fla. 4th DCA 2019). The terms of the Full Settlement Agreement controlled the trial court’s enforcement power. The court did not retain jurisdiction to vary the terms of the Full Settlement Agreement and impose a remedy (eviction) not specifically contained within the Full Settlement Agreement. *See Paulucci v. General Dynamics Corp.*, 842 So. 2d 797 (Fla. 2003); *Olen Properties Corp. v. Wren*, 109 So. 3d 263, 265 (Fla. 4th DCA 2013). As such, the trial court erred when it issued the Final Eviction Judgment.

Based upon the foregoing, we reverse the trial court’s Final Eviction Judgment and remand for further proceedings consistent with this opinion.

Reversed and remanded for further proceedings consistent with this opinion.

LINN, J. and MENZ, Acting Circuit Judge, concur.

Copies of above decision
were furnished to the attorneys/parties
of record on the same date
the decision was filed.