

THIRD DISTRICT COURT OF APPEAL OF FLORIDA

Ninoska D. Bracho Martinez v. Jonathan M. Morey

No. 3D24-1250 (Fla. 3d DCA Dec. 10, 2025) · No. 3D24-1250 · Decided December 10, 2025

SUMMARY

The Third District Court of Appeal of Florida reversed a final judgment of eviction because the trial court entered judgment without resolving the tenant’s timely filed motion to determine rent. The court held that an undisposed motion to determine rent precludes entry of a final eviction judgment based on nonpayment. The case was remanded, and the court declined to reach the tenant’s remaining due-process argument.

CASE DETAILS

COURT	Third District Court of Appeal of Florida
WRITING FOR THE COURT	LOBREE, J.; EMAS, J.; MILLER, J.
JURISDICTION	Third District Court of Appeal of Florida
DECIDED	December 10, 2025
DOCKET	3D24-1250
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a final judgment of eviction entered by the Miami-Dade County Court. The appellate court reversed and remanded after concluding that the trial court entered judgment without addressing the tenant's pending motion to determine rent.
PRECEDENTIAL VALUE	Published opinion; precedential under applicable Florida law, subject to disposition of any timely motion for rehearing.
PARTIES	Ninoska D. Bracho Martinez v. Jonathan M. Morey

TOPICS

- eviction
- landlord tenant
- appellate procedure
- civil procedure
- remedies

PRACTICE AREAS

- landlord-tenant law
- civil procedure
- appellate procedure
- eviction remedies

QUESTIONS PRESENTED

1. Whether the trial court could enter a final eviction judgment based on nonpayment while the tenant's timely filed motion to determine rent remained pending and unresolved.
2. Whether the trial court violated due process by entering the eviction judgment at a hearing noticed only for "Defendant's Letter."
3. Whether the appeal should be decided on the merits despite the tenant's relocation after eviction.

HOLDINGS

1. An undisposed-of motion to determine rent precludes entry of a final eviction judgment based on nonpayment. Because Bracho timely filed such a motion and the trial court never resolved it, the trial court erred by entering the eviction judgment.
2. The court exercised its discretion to reach the merits despite Bracho's relocation because an eviction can have collateral consequences when tenants seek housing or credit.

KEY QUOTATIONS

"Under Florida law, an "undisposed-of motion to determine rent preclude[s] entry of final judgment based on nonpayment. "" (at 2)

"The record shows Bracho timely filed her motion to determine rent and no order disposing of her motion was entered." (at 2)

FACTUAL BACKGROUND

The landlord filed an eviction complaint alleging failure to pay rent. Five days later, Bracho, then self-represented, answered and moved to determine rent, contending that she had overpaid. Although the motion remained pending, the trial court entered a final eviction judgment at a hearing noticed only for "Defendant's Letter." Bracho later obtained counsel and sought rehearing and vacatur.

PROCEDURAL HISTORY

Jonathan M. Morey filed an eviction complaint against Ninoska D. Bracho Martinez and her husband for nonpayment of rent. Bracho timely answered and filed a motion to determine rent, asserting that she had overpaid, but the trial court did not dispose of that motion before entering a final eviction judgment at a hearing noticed for "Defendant's Letter." After obtaining counsel, Bracho moved for rehearing and to vacate the judgment; the trial court denied that motion. The Third District reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The final judgment of eviction is vacated. On remand, the trial court must address and resolve Bracho's motion to determine rent, including the disputed amount of rent required to be deposited into the court registry, before

entering any final judgment based on nonpayment.

CASES CITED

- Axen v. Poah Cutler Manor, LLC, 323 So. 3d 800, 801 (Fla. 3d DCA 2021)
- Prince v. MCR Apts. 1, LLC, 326 So. 3d 228, 228 (Fla. 3d DCA 2021)
- Ramirez v. Lopez, 357 So. 3d 1281, 1281 (Fla. 3d DCA 2023)
- Ford v. Princeton Groves FL Apartments, 410 So. 3d 1272, 1277 n.2 (Fla. 3d DCA 2025)
- Alfonso v. Maiuri, 405 So. 3d 527, 530 (Fla. 3d DCA 2025)

OPINION

Ninoska D. Bracho Martinez v. Jonathan M. Morey

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed December 10, 2025. Not final until disposition of timely filed motion for rehearing. _____ No. 3D24-1250 Lower Tribunal No. 24-56927-CC-05 _____ Ninoska D. Bracho Martinez, Appellant, vs. Jonathan M. Morey, Appellee. An Appeal from the County Court for Miami-Dade County, Jeffrey Rosinek, Senior Judge. Legal Services of Greater Miami, Inc., and James R. Glover and Jeffrey Hearne, for appellant. No appearance, for appellee. Before EMAS, MILLER and LOBREE, JJ. LOBREE, J. Ninoska D. Bracho Martinez (“Bracho”) appeals a final judgment of eviction from her residence. Based on the record before us, we reverse because the trial court prematurely entered final judgment without addressing Bracho’s motion to determine rent. The landlord, Jonathan M. Morey, filed an eviction complaint against Bracho and her husband for failing to pay rent. Five days later, Bracho, then self-represented, answered the complaint and filed a motion to determine rent contending that she overpaid the rent. Less than a month later, Bracho filed a letter with evidence she asserted supported her defense of payment. Morey moved for default on the basis that Bracho had not paid the requested rent into the court registry under section 83.60(2), Florida Statutes (2024). This motion erroneously stated that no motion to determine rent had been filed. The trial court issued a notice of special set Zoom/virtual hearing scheduled for “Defendant’s Letter.” At that hearing, the trial court entered final judgment of eviction.¹ Bracho obtained counsel and moved for rehearing and to vacate the final judgment. The trial court denied the motion. On appeal, Bracho contends the trial court erred by entering final judgment without ruling on her motion to determine rent, and that she was ¹ We acknowledge the record contains no transcript of this hearing. Yet it is clear, even without the benefit of a transcript, that the trial court entered final judgment without consideration of the motion to determine rent as its order merely grants final judgment. ² denied due process as the trial court entered the eviction final judgment at a hearing noticed only for “Defendant’s Letter.”² The record shows Bracho timely filed her motion to determine rent and no order disposing of her motion was entered. Under Florida law, an “undisposed-of motion to determine rent preclude[s] entry of final judgment based on

nonpayment.” Axen v. Poah Cutler Manor, LLC, 323 So. 3d 800, 801 (Fla. 3d DCA 2021); see also Prince v. MCR Apts. 1, LLC, 326 So. 3d 228, 228 (Fla. 3d DCA 2021) (“[W]e conclude the tenant’s motion for determination of rent, pending and unresolved in the trial court, precluded entry of the judgment.”); Ramirez v. Lopez, 357 So. 3d 1281, 1281 (Fla. 3d DCA 2023) (reversing “the final judgment of eviction in this landlord-tenant dispute because the trial court should have set Tenant’s motion to determine rent for an evidentiary hearing to resolve the disputed issue of how much rent Tenant should have deposited into the court registry”). Therefore, the trial court erred in granting the final judgment and we vacate the final judgment for eviction.^{3 2} Although Bracho has relocated after her eviction, we exercise our discretion to dispose of this appeal on the merits, because “the eviction can have collateral consequences for the Tenants when they seek to obtain housing or credit.” Ford v. Princeton Groves FL Apartments, 410 So. 3d 1272, 1277 n.2 (Fla. 3d DCA 2025) (quoting Alfonso v. Maiuri, 405 So. 3d 527, 530 (Fla. 3d DCA 2025)). ³ Based on this disposition, we decline to reach the remaining argument. ³ Reversed and remanded.

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