

**County Civil Court:** LANDLORD/TENANT - Court Registry –Commercial tenant ordered to pay past-due rental payments into court registry by date and time certain. Allegedly due to error by express shipping service, funds delivered to Clerk of Court one day late. Trial court had no discretion to extend time for deposit of past due rental payments. See § 83.232(5), Fla. Stat, (2012). There is ministerial duty to provide statutory remedies. Final judgment for possession to landlord affirmed. *St. Petersburg Pain & Urgent Care v. Sara Elizabeth Adamo, Trustee*, No. 12-000039AP-88A (Fla. 6th Cir. App. Ct. April 2, 2013).

**NOT FINAL UNTIL TIME EXPIRES FOR REHEARING AND, IF FILED, DETERMINED**

**IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA  
APPELLATE DIVISION**

**ST. PETERSBURG PAIN & URGENT CARE,  
Appellant,**

**Case No.: 12-000039AP-88A  
UCN: 522012AP000039XXXXCI**

**v.**

**SARA ELIZABETH ADAMO, TRUSTEE,  
Appellee.**

\_\_\_\_\_ /

**CORRECTED OPINION<sup>i</sup>**

Opinion Filed \_\_\_\_\_

Appeal from Final Judgment  
Pinellas County Court  
Judge Kathleen T. Hessinger

Bart A. Houston, Esq.  
Attorney for Appellant

Daniel Kortenhaus, Esq.  
Attorney for Appellee

**PER CURIAM.**

Appellant St. Petersburg Pain & Urgent Care, Inc., a non-residential tenant appeals the Final Judgment of Eviction entered by the trial court on August 10, 2012. We affirm.

Appellee Sara Elizabeth Adamo, as Trustee of the Samauri Irrevocable Trust, U/T/D 06/29/2005 ("Trustee"), is the landlord of a commercial lease with tenant St.

Petersburg Pain. The Trustee filed a Complaint for Eviction. On July 30, 2012, a Default Judgment for Possession was entered. After a hearing, on August 6, 2012, the trial court entered the Order Vacating Default Judgment and Staying Writ of Possession. The Order directed St. Petersburg Pain to file its Answer and deposit the three past due rental payments in the total amount of \$8,820.00, into the registry of the court by 4:00 p.m. on August 8, 2012. The Order warned St. Petersburg Pain that failure to pay the rent by the date stated would result in the entry of a Final Judgment of Eviction on August 9, 2012.

St. Petersburg Pain did not deposit the rental payments into the registry of the court on August 8, 2012. However, the Clerk of Court received a Federal Express delivery with a certified check for deposit on August 9, 2012, at 10:30 a.m. The Clerk did not deposit the check, but held it pending further order of the Court.

The Trustee filed an "Ex-Part Motion for Entry of Judgment for Possession Due to Failure to Deposit Rent" that was considered by the Court at the Final Hearing of Possession on August 9, 2012. At the hearing, counsel for St. Petersburg Pain explained that the Federal Express delivery of the deposit was one day late due to an error made by Federal Express.

The trial court properly found that pursuant to section 83.232(5), Florida Statutes (2012), it had no discretion to extend the time for the deposit of the past due rental payments. See Stetson Mgmt. Co. v. Fiddler's Elbow, Inc., 18 So. 3d 717, 718 (Fla. 2d DCA 2009); 214 Main St. Corp. v. Tanksley, 947 So. 2d 490 (Fla. 2d DCA 2006). The trial court issued a detailed Final Judgment of Eviction which thoroughly sets out binding case law. The trial court had a ministerial duty to provide the remedies set forth in the statute and did not err in entering the final judgment for possession of the subject property to the Trustee. See Palm Beach Marketplace, LLC v. Aleyda's Mexican Restaurante, Inc., 103 So. 3d 911, 912 (Fla. 4th DCA 2012).

Affirmed.

**DONE AND ORDERED** in Chambers in Clearwater, Pinellas County, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2013 *nunc pro tunc* April 2, 2013.

Original order entered on April 4, 2013, *nunc pro tunc* April 2, 2013, by Circuit Judges Linda R. Allan, John A. Schaefer, and Jack R. St. Arnold.

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<sup>i</sup> In this opinion, the Court corrects the scrivener's errors in the third paragraph of the Court's Order of April 2, 2013, that is, to reflect that the described events occurred in 2012 and not in 2013; there are no substantive changes.