

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

In re:

Case No. 6:06-bk-00119-ABB
Chapter 7

GERALDINE HIXON,

Debtor.

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ORDER

This matter came before the Court on the Expedited Motion for Rehearing (“Rehearing Motion”) (Doc. No. 46) filed by Geraldine Hixon, the *pro se* Debtor herein (“Plaintiff”). The Debtor rented an apartment from Anthony Grant (“Landlord”), who obtained an Order of Default and Final Judgment of Eviction in Orange County state court against the Debtor for her non-payment of rent. The Debtor filed this Chapter 7 bankruptcy case on February 1, 2006 in an attempt to stay eviction proceedings. The Landlord filed his Motion for Relief from the Automatic Stay (Doc. No. 20) and was granted relief from the automatic stay at the hearing on March 27, 2006.

The Debtor filed a Request for Reconsideration of Order Granting Motion for Relief (Doc. No. 25) (“First Request for Reconsideration”), which was set for hearing on May 15, 2006. An emergency telephonic hearing on the First Request for Reconsideration was held on April 10, 2006 at which the Debtor and counsel for the Landlord appeared. The Court denied the First Request for Reconsideration and waived the ten-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3). The Order granting the Landlord relief from the stay was entered on April 13, 2006 (“Stay Order”) (Doc. No. 13) and the Debtor then filed a Request seeking reconsideration of the Stay Order (“Second Request for Reconsideration”) (Doc. No. 40). A hearing on the Second Request for Reconsideration was noticed for May 15, 2006. Counsel for the landlord appeared at the May 15th hearing, but the Debtor did not appear. The Court denied the Second Request for Reconsideration and took the Motion to Dismiss Case under advisement.

The Debtor most recently filed the Rehearing Motion. It appears from this pleading the Landlord has evicted the Debtor from his property

and she seeks relief from the eviction and/or the Court’s denial of her Second Request for Reconsideration. The Rehearing Motion shall be treated as a motion for reconsideration pursuant to Federal Rule of Civil Procedure 60.

Federal Rule of Civil Procedure 60, made applicable to bankruptcy proceedings through Federal Rule of Bankruptcy Procedure 9024, allows for relief from a judgment or order pursuant to certain circumstances including clerical mistakes, inadvertence, surprise, excusable neglect, newly discovered evidence, and fraud. The Plaintiff has failed to establish any grounds for relief from either the Court’s denial of her Second Request for Reconsideration or the Order granting the Landlord relief from the automatic stay. The Landlord exercised his state law eviction rights after being granted relief from the automatic stay. The proper forum for addressing any dispute the Debtor may have with the eviction is the Orange County state court.

Accordingly, it is

**ORDERED, ADJUDGED and
DECREED** that the Plaintiff’s Expedited Motion for Rehearing is hereby **DENIED**.

Dated this 15th day of June, 2006.

/s/ Arthur B. Briskman
ARTHUR B. BRISKMAN
United States Bankruptcy Judge