

**IN THE CHIEF MAGISTRATE COURT OF RIVERS STATE OF NIGERIA
IN THE RUMUODOMAYA MAGISTERIAL DISTRICT
HOLDEN AT RUMUODOMAYA**

**BEFORE HIS WORSHIP B.H. ABE (MRS) ESQ., SITTING AT THE CHIEF
MAGISTRATE COURT 2 RUMUODOMAYA ON WEDNESDAY THE 2ND DAY OF
AUGUST, 2023**

RMC/SCC/009/2023

Between

OGUNDU WALI CHIMA

VS.

TIMOTHY NYEKPEYE

Matter for Judgment

Parties; L.C.D. Wodike, Esq. appearing with Agochi Amadi, Esq. for the claimant

No appearance for the defendant.

JUDGMENT

The Claimant claims as follows:

Arrears of rent of N187,500.00 (One Hundred and Eighty-Seven Thousand, Five Hundred) only, for a period of one year and three months.

Facts

The claimant via a complaint Form RSSC 2, a summons Form; RSSC 3 and a letter of demand Form RSSC 1 issued on his behalf at the registry of this Honourable Court, commenced this suit, by service of the ordinary summons and other said processes aforementioned, on the defendant, through substituted service by the order of the Court granted on the 12th July, 2023, in line with O7 rule 4(d) rules of Court, 2007.

L.C.D. Wodike, Esq appeared with Amadi Agochi for the claimant.

The claimant's counsel LCD Wodike entered a plea of not liable for the defendant who was absent on the 17th July, 2023.

The claimant gave his name as Ogunka Wali Chima, he said he knows the defendant, the defendant owes him N187,500.00 as arrears of rent for one year and two months; from 29th March, 2022 to 30th May, 2023.

He served the defendant with a letter of demand before the Court as Form RSSC 1.

He prayed the Court for an order of Court for the payment of his money and N50,000.00 legal fees.

At the end of his evidence, the defendant was foreclosed from cross examination of cw1 and foreclosed from his defence, the claimant's counsel waived his right to address the Court, the Court thus adjourned for judgment.

Issue for Determination

Whether the claimant is entitled to his claim?

COURT

The claimant in proof of his case gave evidence as cw1, he was not cross examined by the defendant due to his absence, the Court foreclosed the defendant from cross examination of cw1 and from entering his defence.

The affidavit of service, Form RSSC 6, being proof of service deposed to by the Court bailiff, Uchendu Chinedu, wherein he deposed to service on the defendant a summons for small claims court, dated 17th July, 2023, is before the Court.

The endorsement and return copy of the complaint form, Form RSSC 2 and the summons, Form RSSC 3 served on the defendant are all before me.

Despite the service of all of these processes on the defendant, he failed and neglected to appear before this Court to defend this suit against him. The service of the summons and the demand letter, also the complaint form serve as sufficient notice of the case against him (the defendant).

It is trite law that where a party fails to call evidence in support of his case or in rebuttal of the case of the opposite party, the trial Court is entitled to resolve the case against him. Only minimal evidence is required to proof his case where the evidence is uncontroverted.

The Defendant negligently and willfully chose to ignore the Court proceedings from the inception of this case till the day the Claimant's Counsel adopted his written address, he was served with a hearing notice but still ignored the Court's proceedings.

See the case of CBN vs. Igwillo (2007)14 NWLR (part 1054), page 406 and Nigeria social Insurance Trust fund Management Vs. KLIFF CO Nigeria Limited (2010)13 NWLR (P. 1211) pg. 307.

It is trite law that were a party fails to call evidence in support of his case or in rebuttal of the case of the opposite party, the trial Court is entitled to resolve the case against him. See the case of CHIEF CHRISTOPHER I. MONKOM AND 2 ORS. Vs. AUGUSTINE ODILI (2010) ALL FWLR (PT 536) 542, the Court of Appeal held "Where only one-party calls evidence, minimum proof is required of him in order for his claim to succeed".

Also see ALFOTRIN LTD VS. AG FEDERATION (1996) 9 NWLR (PT. 475) 634 and FOLORUNSO AND ANOR VS. SHALOUB (1994) 3 NWLR (PT. 333) @PG 433.

In the absence of any rebuttal on the part of the defendant, only minimum proof is required for the claimant's claims against the defendant to succeed.

In the absence of any rebuttal of the evidence of cw1 on the part of the defendant, having being properly served with the processes in this suit, the Court hereby enters judgment for the claimant against the defendant.

Accordingly, the Court, hereby orders as follows;

That arrears of rent of the sum of N187,500.00 (One Hundred and Eighty-Seven Thousand, Five Hundred Naira) only, for the period 29th March, 2022 to 30th May, 2023, be paid by the defendant to the claimant immediately.

This is the judgment of the Court.

MRS. BARIYAAH .H. ABE
Chief Magistrate
2nd August, 2023.

