

**IN THE MAGISTRATE COURT OF RIVERS STATE OF NIGERIA
IN THE PORT HARCOURT MAGISTERIAL DIVISION
HOLDEN AT PORT HARCOURT
BEFORE HIS WORSHIP NNEKA E. EZE-OBUZOR
SITTING ON THE 24TH DAY OF APRIL 2024
AT THE SMALL CLAIMS COURT 4 PORT HARCOURT**

SUIT NO: PMC/SCC/21/2024

BETWEEN

CHIEF FRANCIS NDUBUISI ----- CLAIMANT

AND

MR. INNOCENT ENEOGWU ----- DEFENDANT

PARTIES: Absent

APPEARANCES: G.S.Ndaligwe Esq. for Claimant

No representation for Defendant

JUDGEMENT

By a claim dated 29/01/2024, the Claimant's claim against the Defendant are as follows:

1. N1, 600,000.00 for arrears of rent
2. N500, 000.00 cost

PLEA

By the affidavit of service availed this court, the Defendant was served the originating process in this suit by substituted means by sending to the Defendant's whatsapp number on 12/2/2024 at 2:15pm. On the 19/2/2024, a plea of not liable was entered for and on behalf of the absent Defendant.

SUMMARY OF EVIDENCE

The Claimant in proof of his case called a lone witness and tendered two exhibits marked Exhibit A and B.

The Defendant never appeared to defend this case hence no evidence was entered for the Defendant.

The relevant facts from the case of the Claimant as presented by one Elfreda Imaobong Jeremiah is that she knows the Claimant and they were granted an instruction to manage the property at House 4, B Close, Road 21, Federal Housing Estate, Agip, Port Harcourt on his behalf. That the Claimant donated a power of attorney to them. That she also knows the Defendant who was a tenant at the subject property and occupied a detached 4 bedroom duplex with an annual rent of N1, 200, 000.00. That the Defendant's rent expired on the 1/8/2021. That when the Defendant's rent expired, he was served with a demand notice but it was not paid. That the Defendant moved out on the 30/9/2023 without paying

the arrears and outstanding. That the Defendant was owing the sum of N1, 600,000.00. The demand letter was admitted as Exhibit A. The power of attorney was tendered as Exhibit B.

Upon the absence of the Defendant, he was foreclosed from cross examining the CW1 and from entering his defence.

The Claimant waived his right to address hence case was adjourned for judgement now being read.

RESOLVE

In determination of this suit, I will adopt a lone issue to wit.

Whether the Claimant has proved his case to be entitled to judgement

The law is trite that a Court is at liberty to accept and act on unchallenged and uncontroverted evidence. See the case of **OFORLETE V. STATE (2000) 12 NWLR (PT. 681)415**. The court in the case of **ADELEKE V. IYANDA (2001) 13 NWLR PART 729 PAGE 1 AT 23-24 PARA H-A** held that where the Claimant has adduced admissible evidence which is satisfactory in the context of the case, and none available from the Defendant, the case will be decided upon a minimum of proof as this makes the burden lighter.

From the case file, the Claimant has complied with the provisions of **ARTICLE 2 AND 3 OF THE RIVERS STATE SMALL CLAIMS COURT PRACTICE DIRECTION 2023** for the fact that this is a liquidated money demand not exceeding Five million (N5M), the Defendant was served with a demand letter, there is a complaint form, there is an affidavit of service of the summons of court on the Defendant.

On the claim of the Claimant, by way of evidence, the Claimant has tendered the letter demanding payment of arrears of rent to them. Same was received and there was nothing to the contrary or challenging the said letter. It is trite law that where a party fails to respond to a business letter which by the nature of its contents requires a response or a refutation of some sort, the party will be deemed to have admitted the contents of the letter - **GWANI V. EBULE (1990) 5 NWLR (PT. 149) 201**.

It is primary law that standard of proof in civil suit is on the balance of probabilities. It is my opinion that the Claimant has proven his case to be entitled to judgment and I so hold.

On the claim for cost. Cost is at the discretion of the court. Accordingly cost of N200, 000.00 is awarded.

In conclusion, judgement is entered for the Claimant as follows:

1. The Defendant is ordered to pay the Claimant the sum of N1, 600,000.00 for arrears of rent
2. Cost of N200, 000.00 is awarded in favour of the Claimant.