

**IN THE DISTRICT MAGISTRATE COURT HELD AT N.A.M.A. NSAWAM ON 28<sup>TH</sup>  
JULY, 2023 BEFORE HER HONOUR SARAH NYARKOA NKANSAH CIRCUIT  
COURT JUDGE SITTING AS ADDITIONAL MAGISTRATE**

**SUIT NO. A9/14/23**

**ADISA SIEDU  
OF OKYEREKROM  
ADEISO**

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**PLAINTIFF**

**VRS:**

**EUGENE NANA OPOKU  
OF OKYEREKROM  
ADEISO**

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**DEFENDANT**

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PARTIES: PLAINTIFF PRESENT. DEFENDANT ABSENT.

NO LEGAL REPRESENTATION.

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**JUDGMENT**

The Plaintiff herein commenced this action claiming the following against the Defendant:

- a. An order of the Court ejecting Defendant from room he is occupying in Plaintiff's house.
- b. An order directed at Defendant to Pay GH¢2,250.00 being 15 months' rent arrears from 1<sup>st</sup> October 2022 to January 2023 GH¢150 per month.
- c. A further order directed at Defendant to pay an amount of GH¢761.84 being electricity bills in arrears.
- d. Cost

The Defendant was duly served with the writ of summons, Court notes and Hearing Notices. It is however to be noted that even though Defendant had notice of the pending suit, the Defendant did not file any process to contest the suit or appear in Court personally to be heard. The Court therefore proceeded under Order 25 of the District Court Rules, 2009(C.I 59), and proceeded to hear the matter without the Defendant.

*Order 25 r 1(2) (a)* provides;

*“Where an action is called for trial and a party fails to attend, the trial magistrate may where the Plaintiff attends and the Defendant fails to attend, dismiss the counterclaim if any and allow the Plaintiff to prove the claim”*

## **PLAINTIFF’S CASE**

It is the Plaintiff’s case that, Defendant is his tenant whose rent is due and owing for 15 months at GH¢150.00 a month and yet still continues to occupy the room. In addition to the rent arrears the Defendant has refused to pay his electricity bills for which he is in arrears of GH¢800.00. The Plaintiff has maintained that Defendant has refused to pay both his rent arrears and electricity bills arrears. It is the Plaintiff’s case that the Court should eject the Defendant from his house.

The Plaintiff closed her case thereafter

In the circumstance the issues that fall for determination are:

- i. Whether or not the Plaintiff is entitled to recover the sum of GH¢2,250.00 in rent arrears.*

ii. *Whether Defendant should be ejected from the room in dispute.*

iii. *Whether Defendant is liable to pay electricity bills arrears of GH¢761.84*

In the case of *Adwubeng v. Domfeh [1996-97] SCGLR 660*, the Supreme Court held that in all civil actions, the standard of proof is proof by the preponderance of probabilities, and there is no exception to that rule.

As noted supra the Defendant did not contradict or challenge Plaintiff's evidence since he failed to attend the trial. He did waive the opportunity to offer contrary evidence and also to cross-examine the Plaintiff.

The position of the law is that, the Court ought to accept the evidence led by a party, where his opponent fails to lead contrary evidence or challenge same under cross-examination by deeming the evidence as having been admitted by his opponent.

It has been established by the evidence that the Defendant has not paid rent since November, 2021 but he continues to occupy the rooms. It is clear that, the Defendant had not paid rent for 15 months preceding the issuance of the Writ of Summons in January, 2023. 15 months is obviously far in excess of the one month stipulated by law. I find that the Plaintiff is entitled to recover possession of the rooms and eject the Defendant for failing to pay rent for the said 15 months.

***Section 17 1(a) of the Rent Act, 1963 (Act 220);***

*(1) Subject to the provisions of subsection (2) of section 25 and of section 28, no order against a tenant for the recovery of the possession of, or for the ejectment from, any premises shall be made or given by the appropriate Rent Magistrate, or any other Judge of a Court of competent jurisdiction in accordance with the provisions of any other enactment for the time being in force, except in any of the following circumstances:—*

*(a) Where any rent lawfully due from the tenant has not been paid or tendered within one month after the date on which it became lawfully due;*

As per the evidence the rent per month for the chamber and Hall was GH¢150.00 a month. Since the Defendant is owing for 15 months that amounts to rent arrears of GH¢2,250.00 I find that the Defendant is liable to pay the rent arrears of GH¢2,250.00 to the Plaintiff.

It has also been adduced that the Defendant is owing GH¢761.84 in Electricity bills arrears. I find Defendant liable to pay the said electricity bill arrears.

In *Boakye v. Asamoah [1974] 1 GLR 38 @ 45*, the Court held that the legal or persuasive burden is borne by the party who would lose the issue if he does not produce sufficient evidence to establish the facts to the requisite standard imposed under *section 10 of the Evidence Act, 1975 NRCD 323* that is, by a preponderance of probabilities.

The Court has carefully considered the evidence adduced at the trial. The Court concludes by the foregoing that, the Plaintiff has been able to prove his claim by preponderance of probabilities.

I hereby enter judgement in favour of the Plaintiff for the following reliefs.

- i. Recovery of the sum of GH¢2,250.00 in rent arrears.

- ii. Interest on the sum of GH¢2,250.00 at the commercial bank rate from the date issuance of the writ, being 19 January, 2023, to date of final payment.
- iii. Recovery of the sum of GH¢761.84 in electricity bills from the Defendant.
- iv. That the Defendant vacates Plaintiff's rooms in dispute.
- v. The Defendant is ordered to give vacant possession of the rooms in dispute to the Plaintiff within 14days.
- vi. Cost of GH¢500.00 awarded against the Defendant.

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**H/W SARAH NYARKOA NKANSAH**  
**CIRCUIT COURT JUDGE SITTING AS**  
**ADDITIONAL MAGISTRATE**  
**28/07/2023**