

GHANA / JUDGMENT

Blay Vrs Akesson [2023]

GHADC 593 (14 July 2023)

[2023] GHADC 593

COURT

District Court

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IN THE DISTRICT COURT HELD AT HALF ASSINI ON FRIDAY THE 14TH DAY OF JULY, 2023. BEFORE HIS WORSHIP WILLIAM OFORI-ABOAGYE. –MAGISTRATE– SUIT NO. WR/HA/DC/A9/05/23 MILLICENT BLAY -VRS. - AKESSON J U D G E M E N T By Court: The Plaintiff herein took a Writ of Summons against the Defendant on 17-01-23 for a single relief: Ejectment Order and Recovery of Possession. It is the Plaintiff's case that the Defendant took a room from her on rental basis and the tenancy has recently expired. That she is not in the mood to renew the tenancy for the Defendant. The reason being that the Defendant has threatened her with harm thus rendering the relation between them sour. She therefore prayed for an order for ejectment and recovery of possession from the Defendant of the room she rented to him. The processes and a Hearing Notice were duly served on the Defendant on 19-02-23, and on 03-02-23 when the matter was called for trial the Defendant did not show up. In circumstance the court was compelled to order for another Hearing Notice to be served on the Defendant which was duly served on the Defendant as evidenced by an Affidavit of Service dated the 4th day of March, 2023. The matter was again called on 15-6-23 and yet again the Defendant did not only fail to appear in court but also did not file any process in court. The matter was thus adjourned for judgement today. It is trite that a party who fails to appear in court after due service on him, is taken to have deliberately failed to take advantage of the opportunity to be heard. The “audi alteram partem” rule cannot be said to have been breached in such a situation. See Republic v Circuit Court Judge; Ex-parte Dzaka [1984-86] 1 GLR 71, and affirmed in Republic v High Court, cape coast; Ex-parte Marwan Kort[1998-99] 1 SCGLR 833. -2- In Ankumah v City Investments Co. Ltd [2007-2008] I SCGLR 1064 it was held that “The Defendant, after several attempts was finally served but failed to appear in Court. The trial court rightly adjourned the case for judgement. A court is entitled to give a default judgement, as in the instant case, if the party fails to appear after notice of the proceedings has been given to him. For then, it would be justifiable to assume that he does not wish to be heard”. This court is compelled under the circumstance after reviewing the authorities supra to give judgement in favour of the Plaintiff. Judgement is therefore given in favour of the Plaintiff for ejectment of the Defendant and recovery of possession of the room rented to him by the Plaintiff. The law is that where a tenancy expires and the landlord or landlady does not or refuses to renew same, the tenant is entitled to a reasonable time to remove himself and his

property from the premises. This is emphasized in the case of Quagraine v Adams [1981] GLR 599 where it was held “A licensee is entitled to a reasonable time in which to remove himself and his property after the licence was revoked. This is so whether the licence was gratuitous or contractual”. It is the opinion of this court that the same courtesy must be extended to a tenant whose tenancy has expired.

ORDERS

Flowing from the above the following orders are hereby made:

- a) The Defendant is required to give vacant possession of the said room to the Plaintiff,
- b) The Defendant must leave the premises within one month.
- c) The Defendant must pay any arrears of rent, electricity bills, etc he owed before leaving the premises.
- d) A cost of GH¢700.00 inclusive of cost awarded earlier, on 03-2-23, in favour of the Plaintiff and against the Defendant. (SGD) H/W. WILLIAM OFORI-ABOAGYE (MAGISTRATE)
14-07-2023

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