

Housing and Property Chamber First-tier Tribunal for Scotland



Housing (Scotland) Act 1988

Register Of Rents Determined Under Statutory Assured Tenancies

REFERENCE NO. PRHP/RA/16/0269	APPLICATION RECEIVED 11 August 2016
ADDRESS OF PREMISES 3 Broomhill Avenue, Glasgow, G11 7AE	
TENANT Mr Richard Crawford	
NAME AND ADDRESS OF LANDLORD The Trustees of Joel Shapiro Cromdale Investments Ltd, Building 4, Brent Cross Gardens, London, NW4 3RJ	AGENT Redpath Bruce 103 West Regent Street, Glasgow, G2 2DQ
RENTAL PERIOD N/A (Statutory Assured Tenancy)	DATE TENANCY COMMENCED Unknown date in 2012
DESCRIPTION OF PREMISES Unimproved ground floor, main door, tenement flat. The accommodation comprises one public room, two bedrooms, kitchen and bathroom, with uninhabitable basement below. The floor are of the property is approximately 124.8 square metres.	
SERVICES PROVIDED None	
COMMITTEE MEMBERS	
CHAIRPERSON SURVEYOR MEMBER	Jacqui Taylor Carol Jones
PRESENT RENT	£5,650.00
PROPOSED RENT	£6497.50
DETERMINED RENT	£6000
DATE OF DECISION 12 January 2017	EFFECTIVE DATE 15 th October 2016
J Taylor	
----- Chairperson of the Tribunal ----- 18 th January 2017 -----	

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') in connection with an application by the Tenant under sections 24(3) and 34(1) of the Housing (Scotland) Act 1988.

Chamber Ref: PRHP/RA/16/0269

The Property is 3 Broomhill Avenue, Glasgow, G11 7AE ("The Property")

The Parties:-

The Tenant is Richard Crawford (represented by his agent the Legal Services Agency Limited, Fleming House, 134, Renfrew Street, Glasgow, G3 6ST) ('the Tenant')

The Landlords are Cromdale Investments Limited, Building 4, Brent Cross Gardens, London, NW4 3RJ (represented by their agents Redpath Bruce, 103, West Regent Street, Glasgow, G2 2DQ) ('the Landlords')

The Tribunal members are Jacqui Taylor (Chairperson) and Carol Jones (Surveyor Member).

1. BACK GROUND

The Tenant became a statutory assured tenant of the Property, following the death of his brother Alan Crawford in 2012. However he has resided in the property for 71 years.

The Tenant's father Quintin Crawford was the original tenant of the Property. His father's tenancy commenced in 1943 and was a registered tenancy in terms of the Rent (Scotland) Act 1984. His father died in 1987. The Tenant's brother Alan Crawford succeeded to the tenancy in terms of the Rent (Scotland) Act 1984.

Richard Crawford and Alan Crawford resided together in the Property for 25 years before Alan Crawford's death in 2012. Accordingly in terms of Section 3A (2) and Schedule 1B of the Housing (Scotland) Act 1984 Richard Crawford is a statutory assured tenant of the Property. A copy of an Assured Tenancy agreement was exhibited to the Tribunal, but it had never been signed by the Tenant.

The Tenant is currently paying rent of £5650 per annum (£470 per month).

The Landlords applied for an increase in the rent when they served the Tenant with a notice of increase of rent on form AT2, dated 13th April 2016. The Tenant objected to the increase and applied for the rent to be reviewed on form AT4 dated 4th August 2016.

3. JURISDICTION

In terms of section 24(2) of the Housing (Scotland) Act 1988, the Landlords require to serve the Tenant with a correctly completed form AT2, giving at least six months notice of an increase in rent. The Landlords had correctly served the Tenant with a notice of rent increase on form AT2. As stated, the form was dated 13th April 2016 and it advised that the new rent of £6497.50 per annum (£541.46 per month) would take effect from 15th October 2016. The Tribunal were satisfied that they had jurisdiction to hear the application.

4. THE INSPECTION

The Tribunal inspected the Property on the morning of 12th January 2017. The Tenant was present at the inspection. The Landlords did not attend and were not represented. The Tribunal inspected the Property, which is a large unimproved traditional, elevated, ground floor, main door tenement flat in the Broomhill area of Glasgow. It is situated in a three storey blonde sandstone victorian tenement constructed around 125 years ago.

The accommodation comprises large hall, one public room, two bedrooms, dining kitchen and narrow bathroom, with uninhabitable basement below. The kitchen and bathroom fitments are basic and dated. The Landlords have recently replaced the gas cooker. The windows throughout the property are single glazed timber sash and case windows that largely cannot be opened. There is no central heating in the Property. The gas fire in the kitchen was purchased by the Tenant. There is no other heating in the Property. The Tenant rewired the Property in 1975. Since the last inspection the Tenant has decorated the living room and the Landlords have installed a large hot water boiler in the basement, but only part of it has been wired.

The floor area of the property is approximately 124.8 square metres.

There is a communal area at the rear of the tenement and the bin storage area is located here.

The Property is well located for local amenities and public transport.

5. THE HEARING

Richard Crawford, the Tenant, attended the hearing. The Landlords were represented by Margaret Reid, Director of Redpath Bruce and Sally Morris, Property Manager of Redpath Bruce.

Margaret Reid had obtained comparable evidence of other similar but modernised Properties available to lease in the area:

- 2 bedroom flat at Broomhill Drive. The property is unfurnished with double glazing and central heating. Rent £750 per month.
- 2 bedroom flat at Woodcroft Avenue. The property is unfurnished Rent £850 per month.
- 2 bedroom flat at Crow Road. The property is unfurnished Rent £900 per month.

Sally Morris explained that she considered the property at Broomhill Drive to be most comparable with 3 Broomhill Avenue. Margaret Reid advised the Tribunal that she considered the increase sought by the Landlords to be reasonable. It was approximately £200 less than what she considered to be the open market rent of a comparable property in good condition.

Richard Crawford advised the Tribunal that he was aware that the rent of a larger flat at 7, Broomhill Avenue was £1000 per month but this was at least a 3 bedroom flat and likely to be in multiple occupancy. He believes that the Property is located in a Conservation area which means that the cost of installing double glazing would be higher than if the Property was not located in a Conservation Area. He agreed that the property at Broomhill Drive to be most comparable with his Property.

6. THE DECISION

The Tribunal had the following documents before them:-

- A copy of form AT2 advising that the rent would be increased to £6497.50 from 15th October 2016.
- A copy of form AT4 completed by the Tenant, requesting a determination of the rent, and requesting that the terms of the report by Professor Tim Sharpe dated 15th May 2016 be considered by the Tribunal. In summary the report states that major structural repairs were carried out to the Property 25 years ago. The

Property has poor thermal performance, inadequate insulation and no mechanical ventilation. It is hard to heat, the floors are not insulated, the windows are in poor condition and the original windows are inoperable. There is bulging and cracking of the stonework to the front elevation and the Property is not wind and water tight. A copy of the report is annexed and executed as relative hereto.

- Written representations from the Landlords' agents Redpath Bruce. They advise: *'Our clients are requesting an increase of 15% of the current rent ie from £5650 per annum to £6497.50 per annum. Redpath Bruce took over the management with effect from 20th February 2016 having taken over from Speirs Gumley. As you can see from part 3 of AT2 form, adequate notice was given regarding the increase. Since taking over the management in February, there have been no requests made by the Tenant to have repairs carried out; an inspection was carried out on 9th March 2016.'*

The Tribunal considered these documents and the parties' representations.

Separately the Tribunal had obtained details of over thirty similar sized properties available to lease in the area, from the internet. The rents of these properties ranged from £695 to £900 per month. These properties had been modernised and were provided with appliances, carpets and curtains and the properties at the higher end of the range were in better locations and some were also furnished.

The Tribunal considered this evidence and decided that the market rent of properties comparable to 3 Broomhill Avenue, Glasgow was £750 per month (£9000 per annum). They also considered the Landlords' agents submission that the market rent of comparable modernised properties in this location was around £750 per month.

They acknowledged that an adjustment was required to reflect the fact that the Property (3 Broomhill Avenue) had no central heating; had single glazed windows in poor condition throughout; no decoration or floor coverings were supplied by the Landlords; the only appliance provided by the Landlords was the gas cooker; the Property has a dated bathroom and kitchen; a dated wiring system; poor thermal performance and it is not wind and water tight. They considered that a deduction of £3000 per annum was reasonable to reflect these differences and the fact that the Property has extremely basic accommodation with large rooms and no meaningful

method of heating which results in the Property being very cold and would be extremely difficult to market in its present condition.

In view of the foregoing, the Tribunal decided that the open market rent for the property was £ 6000 per annum.

No services are provided by the Landlords.

In reaching this decision the Tribunal have had regard to all the considerations required to be taken into account in terms of Section 25 of the Housing (Scotland) Act 1988.

The Tribunal decided that the rent of £6000 per annum should take effect from 15th October 2016, the date indicated in the Landlord's AT2 form which had been served on the Tenant.

A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

J Taylor

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Chairperson, 17th January 2017

Frank Jarvis
Brown & Co Solicitors
LSA
Fleming House
134 Renfrew Street
Glasgow
G3 6ST

15 May 2016

Subject : **Richard Crawford, 3 Broomhill Avenue Glasgow G11 7AE**

Dear Mr. Jarvis.

Prof. Tim Sharpe
Environmental Research Ltd
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timsharpe@me.com

Further to your instruction dated 4 May 2016, the above property was inspected on 13 May, 2016 and the following is a summary of my findings.

The dwelling is a mid terrace ground floor main door flat in a traditional three-storey stone tenement. Accommodation comprises a living room, kitchen, bathroom and two bedrooms (Photo 1 - 2). The front elevation faces west. External wall construction is solid ashlar sandstone and brick, with plaster on lath internally. Floors are suspended timber. Windows are single glazed, timber framed sash and case units. The windows at the rear of the property have been replaced, but the windows at the front are original. There is a substantial basement area underneath the property, broadly the same area as the flat above. This is accessed via a staircase within the flat and provides access to the rear of the property. The basement is not habitable and is used primarily for storage.

The only fixed heating provision in the dwelling is a single gas fire located in the kitchen. Heating of the remainder of the building is reliant on the use of electrical resistance heaters, which are very expensive to run and difficult to control. There is no provision for mechanical extract ventilation from the property.

The dwelling was subject to a programme of remedial works approximately 25 years ago, during which structural repairs were undertaken. These include the installation of new steel structural elements and partial replacement of timber structural members and evidence of this work can be seen in the basement and the rear elevation (Photo 3 - 9). It is reported that during these works gas fires in the living room, hall and both bedrooms were removed and have not been replaced. The rear living room windows were replaced at this time. No other improvement works are evident in the property.

A dwelling of this age and construction will lose large amounts of heat

through the un-insulated external surfaces to the front and rear elevations, the close wall and through the floor. The U-Value of the external walls is estimated to be $1.3 \text{ W/m}^2\text{°C}$, over six times worse than the current building regulations standard of $0.2 \text{ W/m}^2\text{°C}$. The floor will have a U-value of around $0.52 \text{ W/m}^2\text{°C}$ compared with current requirements of $0.2 \text{ W/m}^2\text{°C}$ – the basement is unheated and ventilated as an external solum space. Originally there may have been some deafening between the joists, but the majority of this has been removed during the remedial works and has not been replaced. The close walls also have a very poor thermal performance and will have a U-value of around $2.0 \text{ W/m}^2\text{°C}$ as compared to current requirements of $0.2 \text{ W/m}^2\text{°C}$.

Any heat delivered to the dwelling will be lost through the thermally deficient walls, floor and windows. As a result, it will be difficult to heat this dwelling to an adequate standard without an unreasonably high expenditure on fuel and the provision of a single gas fire is wholly inadequate for a dwelling of this type and size.

The windows are in a poor condition. The original windows at the front are in a very poor state of repair and are inoperable (Photo 10 - 15), but also have number cracks, splits and deformations which will result in draughts and additional heat loss (Photo 16 - 22). The frames of the replacement windows at the rear are in a better condition, but there is no draught proofing whatsoever (Photo 23 - 28), and single glazing will also lose large amounts of heat, particularly in large windows of this type.

During the inspection I noted some bulging and cracking of the stonework to the front elevation (Photo 29 - 33). This may be the result of further structural movement. The cracking will lead to water penetration to the dwelling and, if unchecked, may result in further structural damage.

Given the lack of insulation, lack of affordable fixed heating provision, lack of adequate ventilation provision, and the poor condition of the windows, the dwelling will be cold and draughty, and it will not be possible to heat this building to a tolerable standard. Accordingly it is not reasonably wind and watertight and is therefore not in a reasonably tenenable and habitable condition.

Improvement to existing stone tenements can be challenging, however there are a number of reasonable measures that may be taken here. The dwelling should have an affordable whole house heating system installed – in this case a gas fired central heating system supplying radiators to all rooms, fitted with thermostatic valves and located on external walls of the property. Humidistat controlled extract fans should be installed in the kitchen and bathroom. The floor of the property should be insulated and efforts made to draughtproof the floors and skirtings, especially at external perimeters.

The windows should be replaced with new double glazed units, with appropriate draught proofing. Not only will this improve thermal performance and comfort, they will also prevent further ingress of water which could lead to further structural deterioration. Other draughtproofing measures should be undertaken on the front door and other cracks in the construction.

I would also recommend that the cracking to the front elevation be evaluated by a structural engineer to determine if the movement is on-going and what remedial actions are required to ensure structural stability and weatherproofing.

I trust this information is helpful to you. Please contact me if you require further details.

Yours sincerely

Prof. T Sharpe



Photo 01



Photo 02



Photo 03



Photo 04



Photo 05

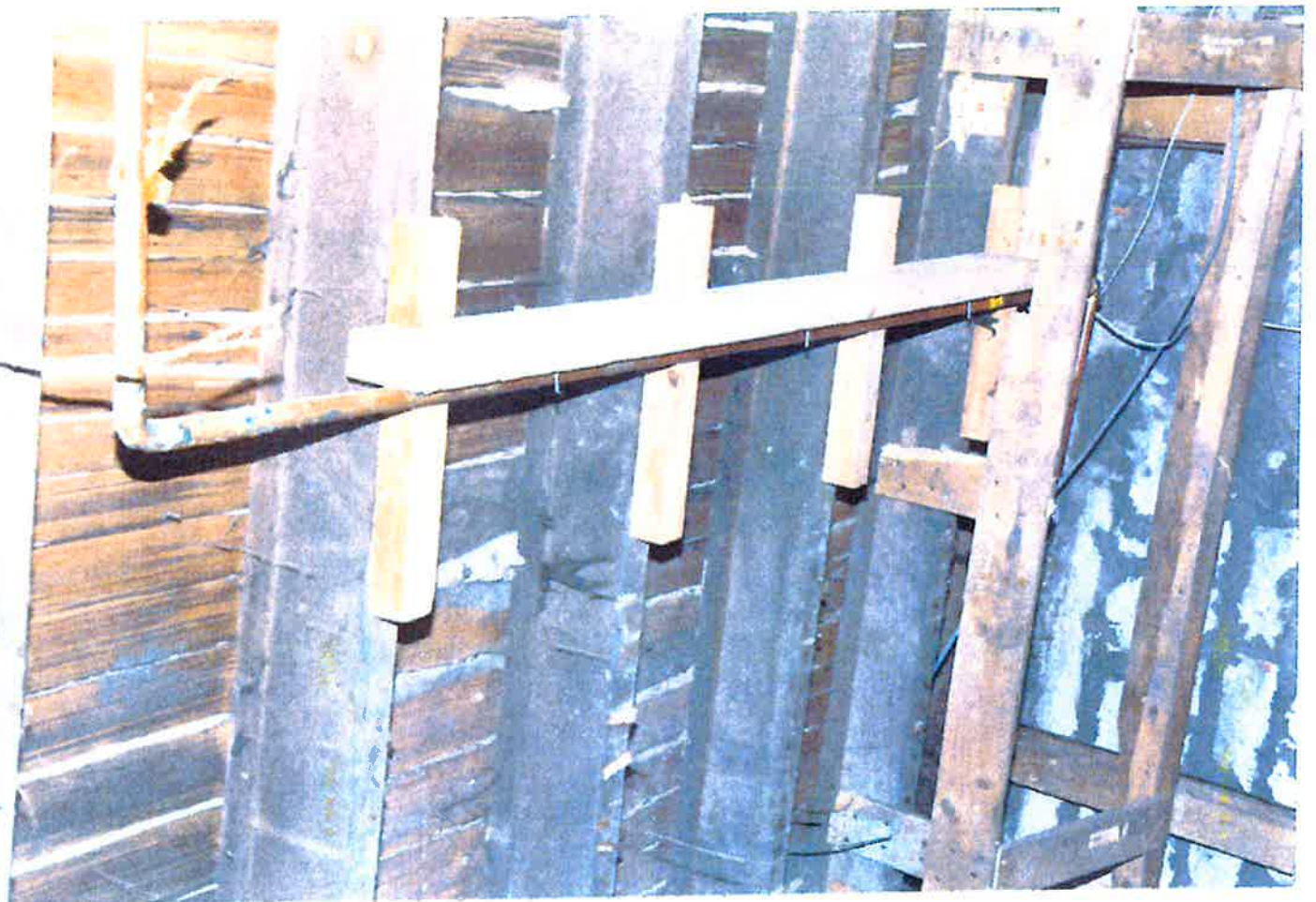


Photo 06



Photo 07



Photo 08



Photo 09



Photo 10



Photo 11

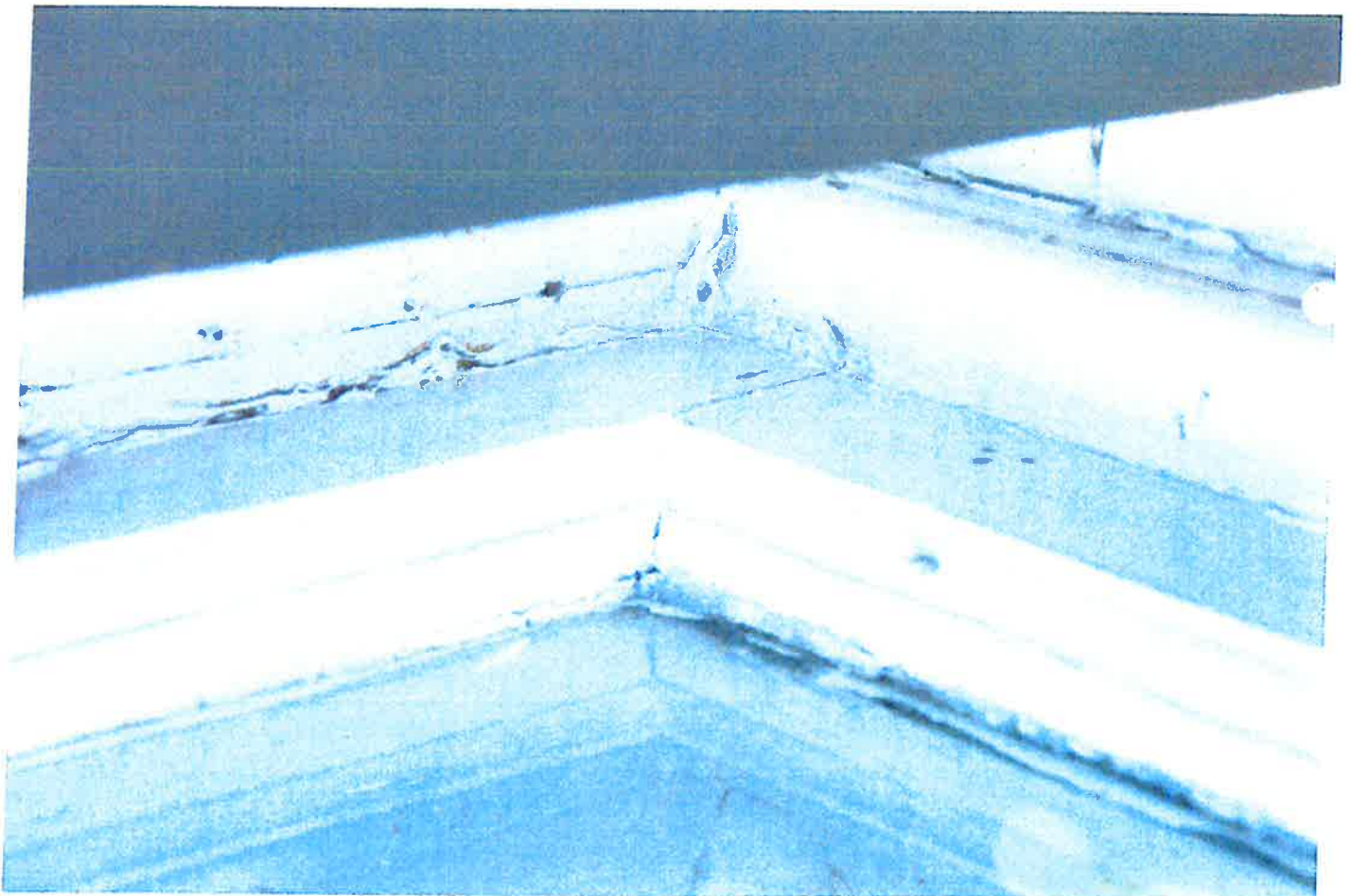


Photo 12



Photo 13



Photo 14



Photo 15



Photo 16

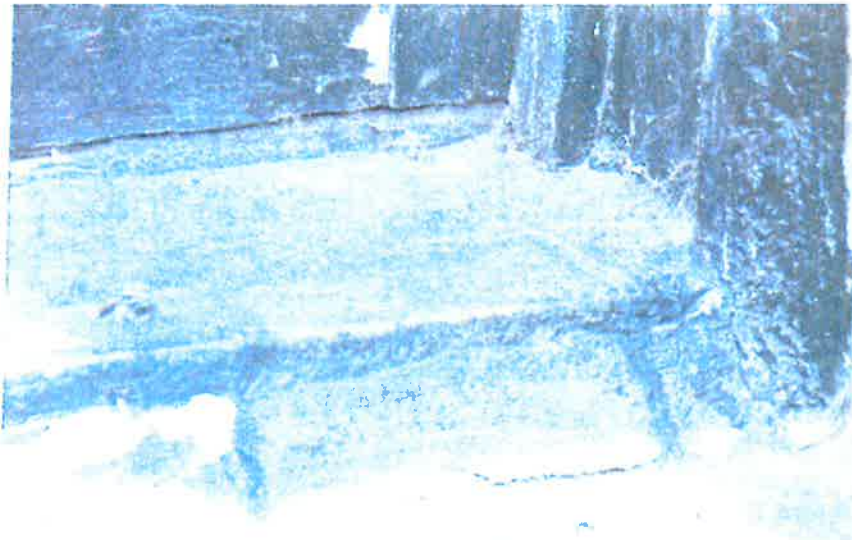


Photo 17



Photo 18



Photo 19



Photo 20

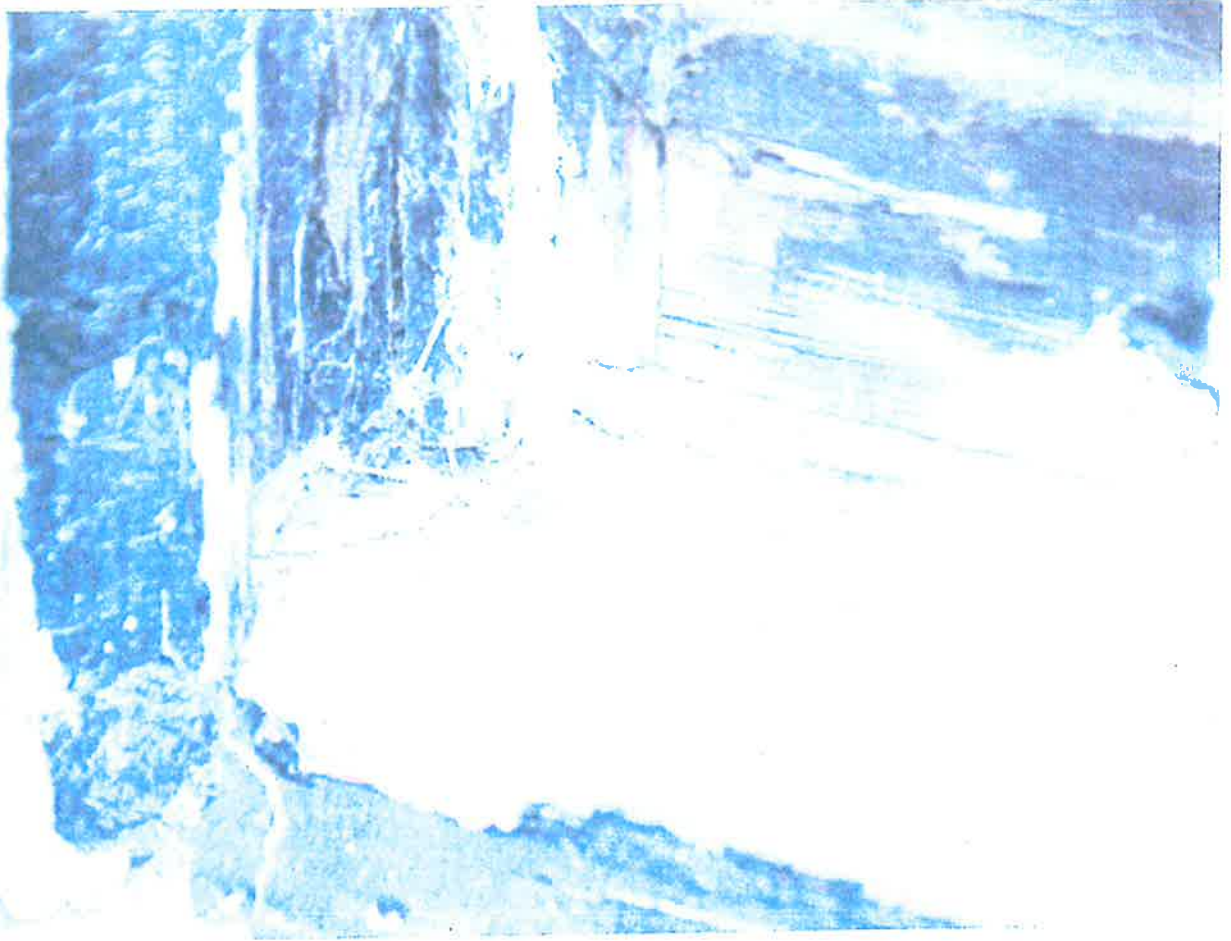


Photo 21

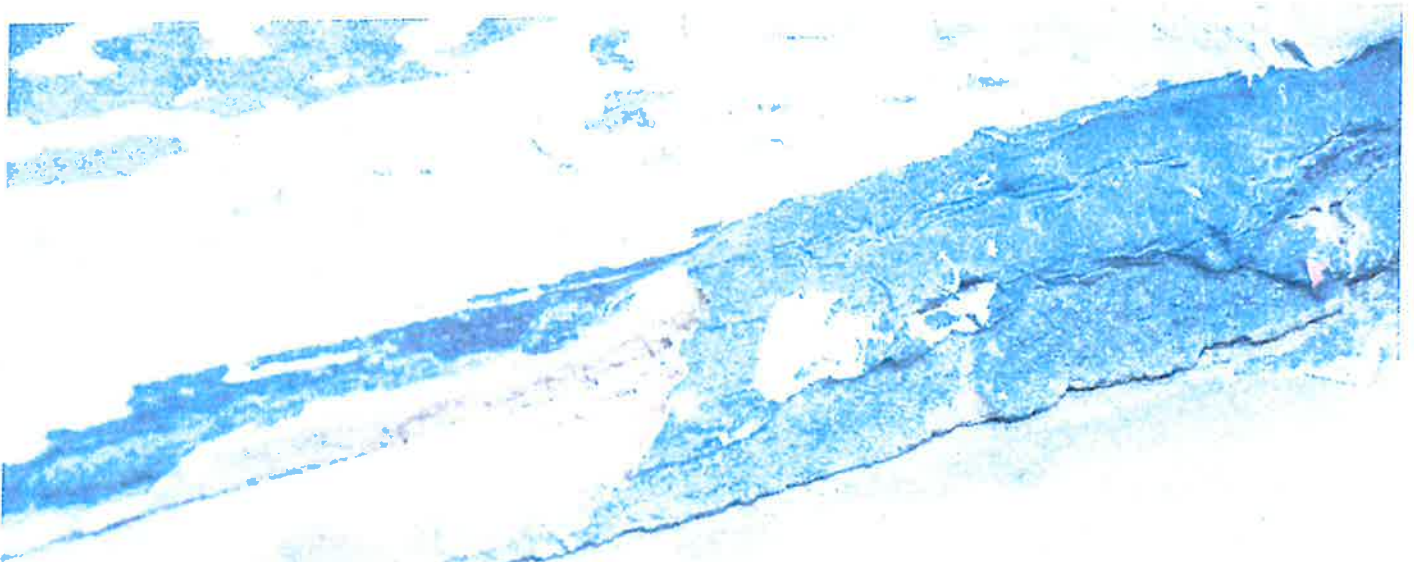


Photo 22

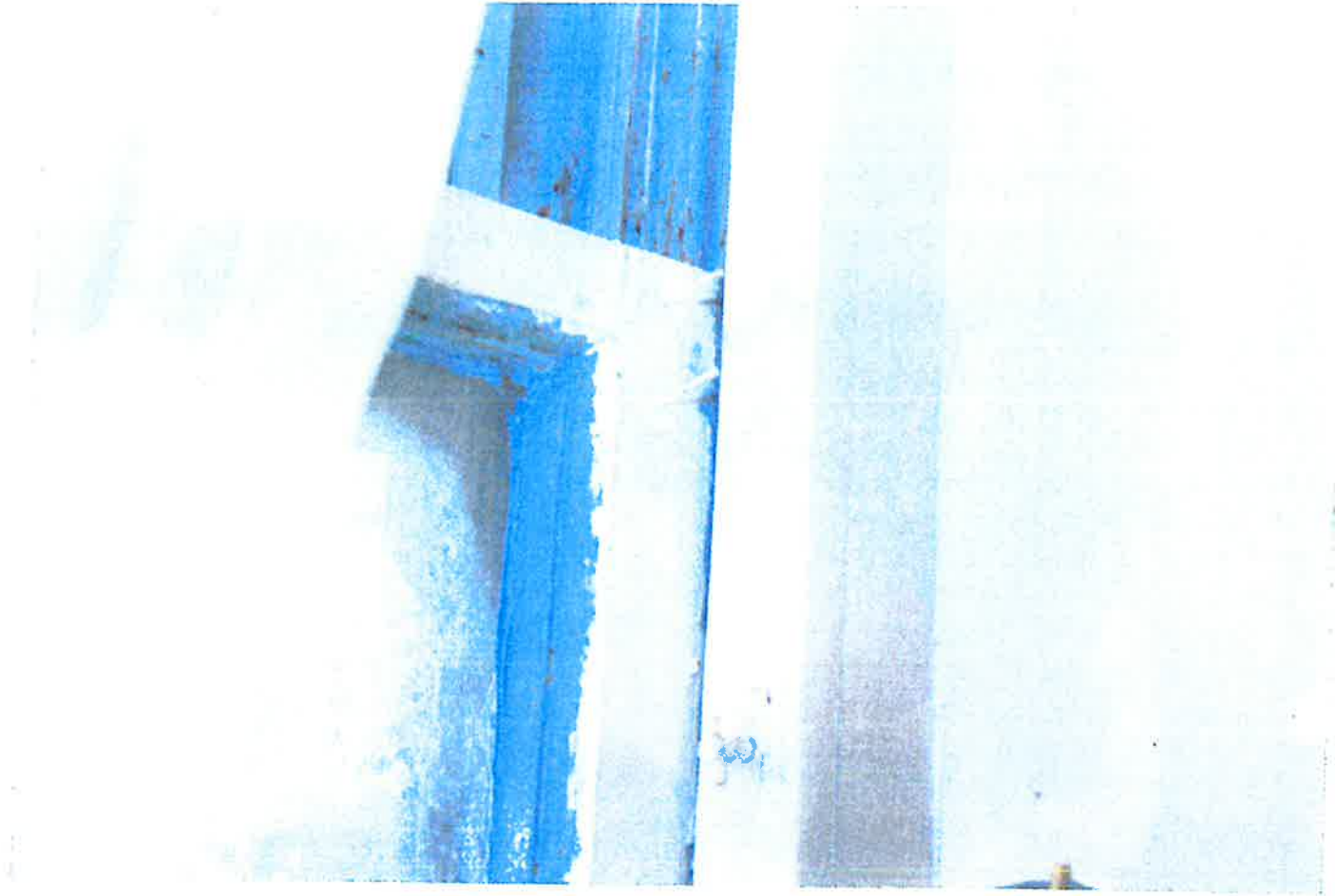


Photo 23

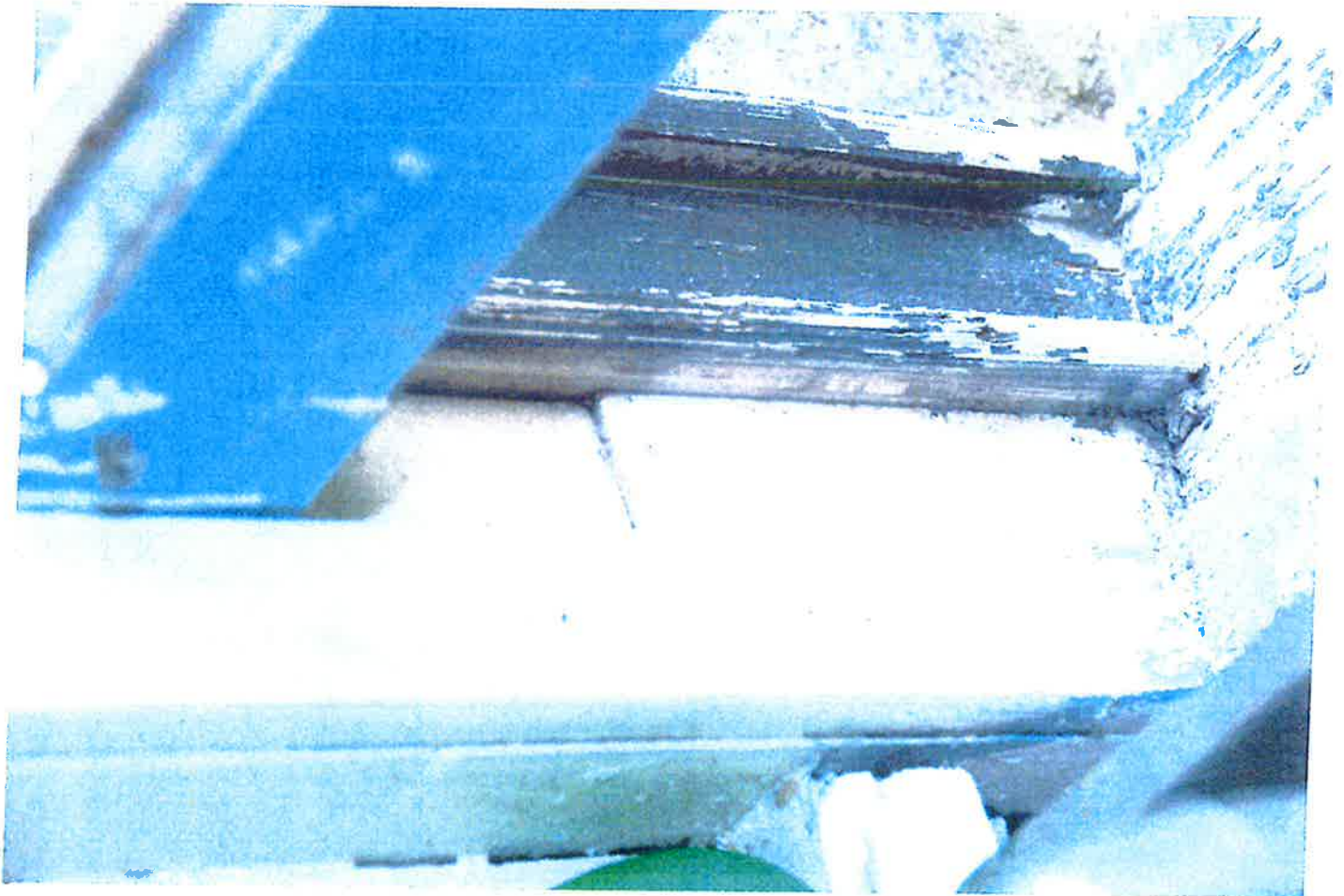


Photo 24

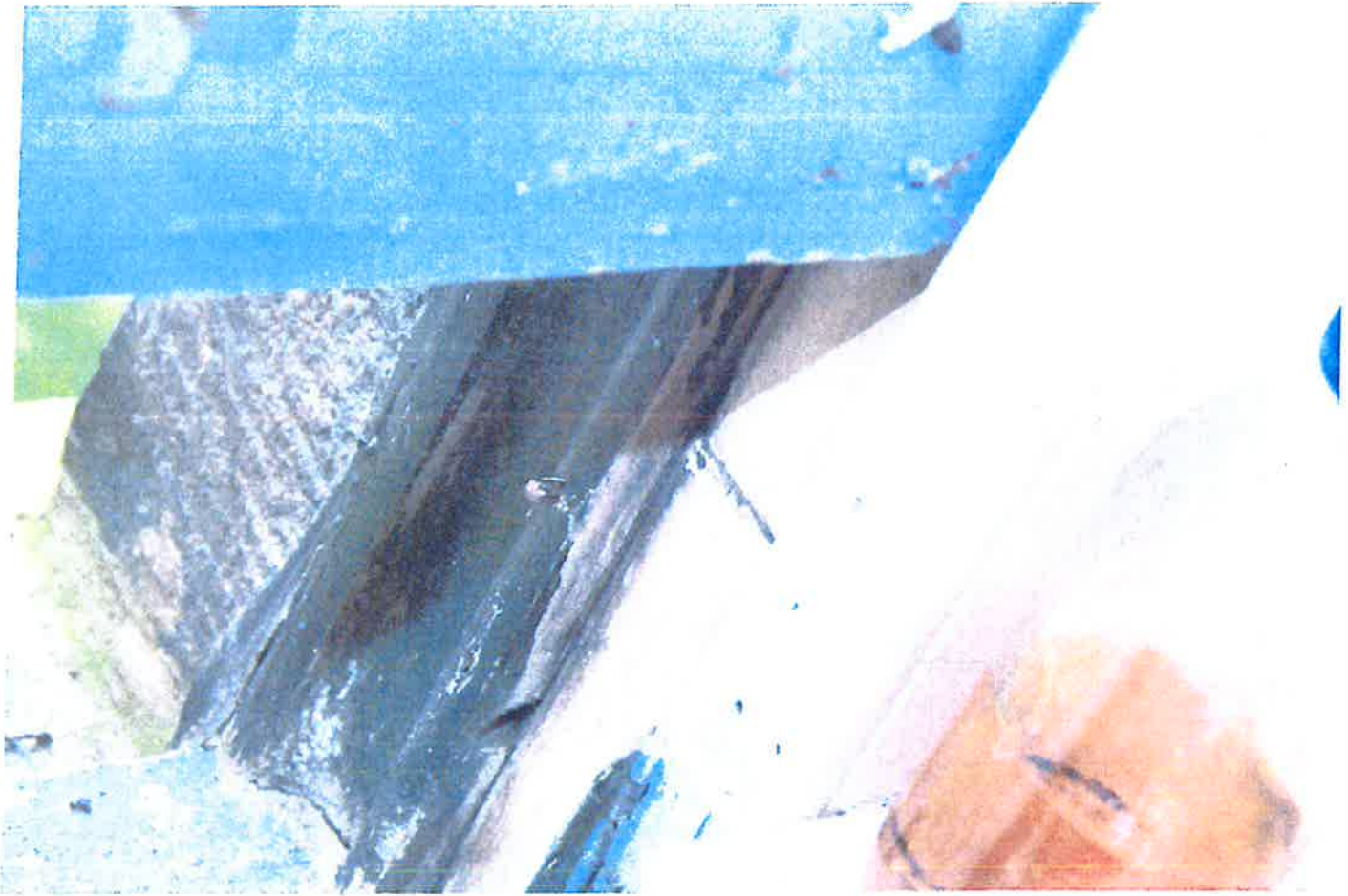


Photo 25



Photo 26



Photo 27



Photo 28



Photo 29



Photo 30



Photo 31



Photo 32

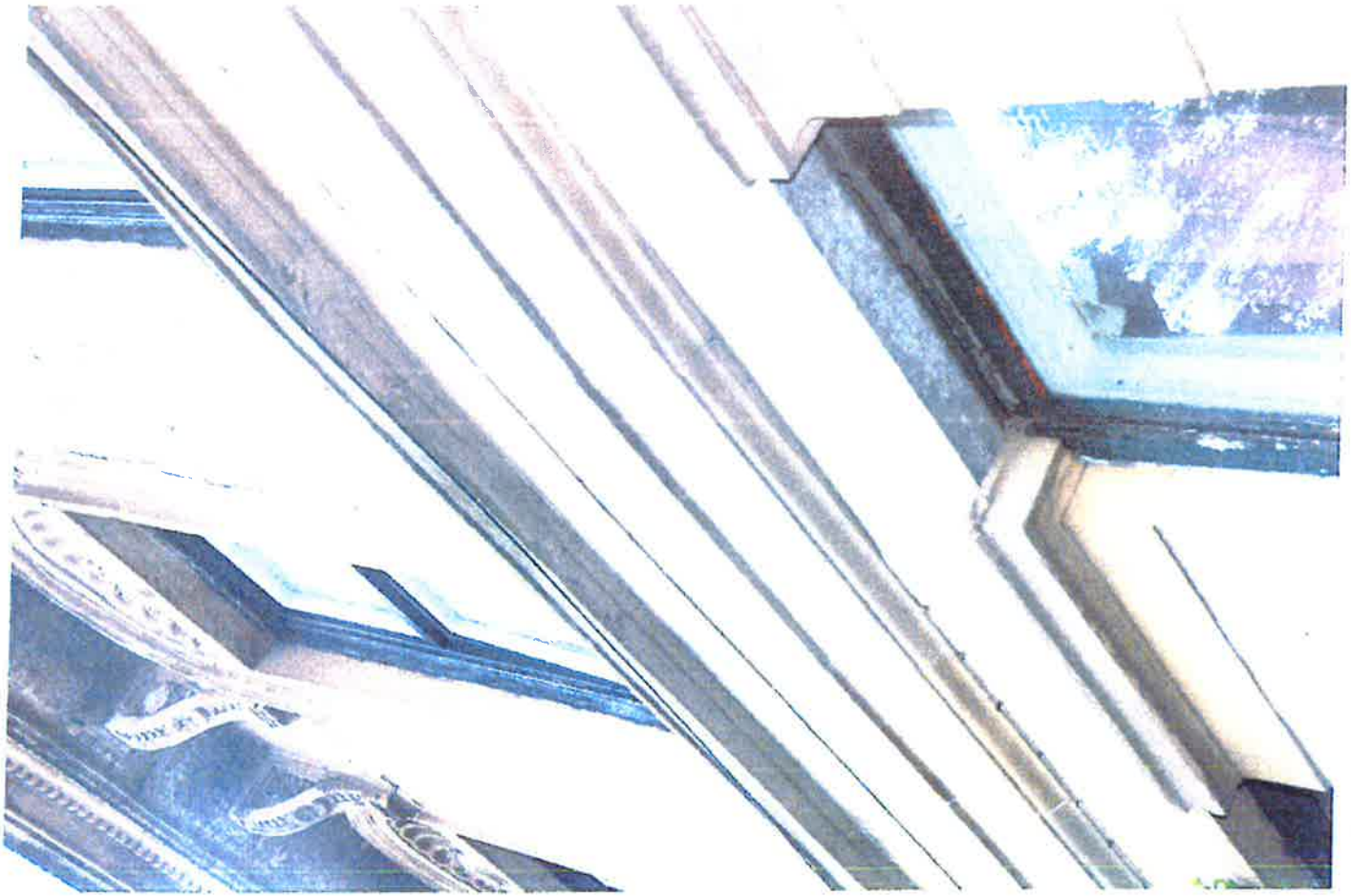


Photo 33

