



First-tier Tribunal for Scotland (Housing and Property Chamber)

**Statement of Decision of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under section 60(5) of the
Housing (Scotland) Act 2006**

Chamber Ref: FTS/HPC/RP/24/0441

**43, Springfield Square, Bishopbriggs, G64 1PU being the subjects
registered in the Land Register of Scotland under Title Number
GLA180631("the Property")**

The Parties:-

**Ms Aiyeke Olagboye residing at 43, Springfield Square, Bishopbriggs,
G64 1PU ("The Tenant")**

**Raymond Heath, East Dunbartonshire Citizens Advice Bureau ('The
Tenant's Representative')**

**Shalinder Kaur Kamboh residing at 5 Tay Crescent, Bishopbriggs,
Glasgow G64 1EU ("The Landlord")**

**Martin and Co, 172 Woodlands Road, Glasgow, G3 6LL ('The Landlord's
Representative')**

**Ms S Wooley, Bannatyne, Kirkwood France and Co, Solicitors ('The
Landlord's solicitor')**

Tribunal Members:

Jacqui Taylor (Chairperson) and Carol Jones (Ordinary Member)

1. Background

1.1 The Tenant leases the Property from the Landlord in terms of the Private Residential Tenancy between the parties.

1.2 The Tenant applied to the Tribunal for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ('the Act').

2. Application

The application by the Tenant dated 25th January 2024 stated that she considered that the Landlord has failed to comply with her duty to ensure that the Property meets the repairing standard. She advised that the Property is not wind and watertight and in all other respects reasonably fit for human habitation; the structure and exterior of the Property (including drains, gutters and external pipes) are not in a reasonable state of repair and proper working order; the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and proper working order and the Property does not meet the tolerable standard.

In particular the application stated the details of how the landlord has failed to meet the repairing standard as follows:

- Dampness and Mould throughout the Property.
- Guttering and drainpipes need attention, possibly structural.
- Boiler and heating system.

3. Notice of Acceptance

On 22nd February 2024, Jacqui Taylor, as Convenor of the First- tier Tribunal (Housing and Property Chamber), signed the Notice of Acceptance which stated that she had considered the application, comprising documents received between 29th January 2024 and 14th February 2024, and she referred the application under Section 22 (1) of the Act to a Tribunal.

4. Direction.

The Tribunal issued a Direction to the Landlord dated 21st May 2024 directing her to exhibit a valid and compliant gas safety record by 6th June 2024. The Landlord's Representative sent the Tribunal an email dated 14th June 2024 with the gas safety record dated 8th September 2023 that had been prepared by Boiler Repairs Replacement. The report, which was prepared by a gas safe engineer confirmed that the boiler is safe to use and all gas installation pipework and audible CO Alarms are satisfactory. The landlord has now produced a further gas safety record by the same company dated 28th September 2024 the terms of which are also satisfactory.

5. The First Inspection and Hearing.

The Tribunal, attended at the Property at 14.00pm on 10th June 2024. A hearing took place after the inspection at the Glasgow Tribunal Centre.

The Tenant's husband was present at the inspection. The Tenant's Representative also attended the inspection. The Landlord did not attend either the hearing or the inspection and was not represented.

On 18th June 2024 the Tribunal administration received an email from the Landlord advising them of her correct address and asking for assistance in having her address corrected on the Landlord Registration website. She had not received notification of the inspection and hearing. Consequently, a fresh hearing and inspection were arranged.

6. Written Representations by the Landlord.

6.1 On the 20th June 2024 the Landlord's Representative emailed the Tribunal and provided a list of works carried out to the property to help alleviate the dampness issue. This list detailed the works as follows: a new thermostat for the heating system (December 2023), faulty front down pipe fixed (January 2024), radiator replaced in kitchen and one bedroom and new radiator in bathroom (February 2024), new extractor fans installed in bathroom and kitchen (April 2024), dampness inspection by T.D.B. Preservation (14 February 2024) and de-humidifier provided (February 2024). The email also stated that another damp specialist company had been instructed to assess the property in terms of dampness and mould and provide a treatment plan.

6.2 The Landlord's solicitor submitted a written statement and productions on 7 November 2024. This included a report by Pure Maintenance UK dated 25 June 2024.

7. The Second Inspection.

The Tribunal, attended at the Property at 10.00am on 18th November 2024

The Tenant, her husband and her representative Mr Heath were present at the inspection. The Landlord's solicitor Ms Wooley and also Mr Nawaz and Ms Osude of Martin and co attended the inspection

The Property is a former local authority ground floor, four in a block, cottage flat constructed around the 1930's/40's. It is located in a predominantly residential area in Bishopbriggs in East Dunbartonshire around 4 miles north-east of Glasgow city centre. The accommodation comprises hall, lounge, kitchen, two bedrooms and bathroom. There is gas central heating in the Property and the windows throughout the Property are UPVC double glazed.

The Tribunal inspected the repairs detailed in the application and found as follows:

Dampness and Mould throughout the Property.

The Tribunal noted that there was significantly less evidence of mould in the Property compared to the inspection carried out on 10th June 2024.

The ordinary member tested the walls of the Property using a damp meter in both search mode and using probes.

Lounge

Damp Meter readings were taken on the front external wall and the internal wall adjoining the front bedroom. The readings at the lower part of the front external wall (up to approximately one metre) ranged from amber to red, which was indicative of moderate to high moisture levels on the surface and within the wall. The readings on the internal wall also showed moderate moisture levels but reducing to a low level towards the entrance door to the room.

Main Front Bedroom

Damp Meter readings were taken on the two external walls. The readings at the lower part of the external walls (up to approximately one metre) ranged from amber to red, which was indicative of moderate to high levels of moisture on the surface and within the walls. There was visible moisture on the external walls and evidence of streaks of water running down the walls. At the far corner of the main bedroom a section of carpet had been pulled back revealing the floor boards. The floor boards were also tested using the damp meter and the reading was red. The floor boards were wet to the touch and the tribunal observed mould growth.

Second Rear Bedroom

Damp Meter readings were taken on the two external walls. The readings at the lower part of the external walls (up to approximately one metre) ranged from amber to red, which was indicative of moderate to high moisture levels on the surface and within the walls.

Bathroom

The external wall was very wet. Damp Meter readings were taken on the external wall and the internal wall adjoining the rear bedroom. The readings at the lower part of the walls (up to approximately one metre) ranged from amber to red, which was indicative of moderate to high moisture levels in the walls. There is a wall mounted extractor fan to the left of the window.

Kitchen

Damp Meter readings were taken on the rear external wall to the left side of the back door. The readings at the lower part of the external wall (up to approximately one metre) were red, which was indicative of high moisture levels on the surface and within the wall. There is a wall mounted extractor fan above the back door.

Guttering and drainpipes need attention, possibly structural defect.

The roof had been relatively recently retiled and new pvc gutters fitted. The downpipes, soil pipes and water pipes were mostly original cast iron pipes. There were signs of corrosion but not obvious signs of water leaks. A section of waste pipe from the upper flat had been repaired/replaced to the rear elevation. The bossed and cracked sections of the external roughcasting had recently been repaired. The cover to one of the rear sub floor vents that had been missing at the inspection on 10th June 2024 had been replaced. The other two sub floor vents to rear are still part blocked by the ground level. The blocked sub floor vents to the front elevation had been cleared.

Boiler and heating system.

The heating system had been serviced and repaired in February 2024. The Landlord had replaced two defective radiators in the kitchen and rear bedroom of the Property and fitted a new radiator in bathroom where there had previously been none.

Observation

While not forming part of the application the Tribunal observed that that carbon monoxide alarm is not located in accordance with the Scottish Government Guidance for the Provision of Carbon Monoxide Alarms in Private Rented Housing as it is not sited between 1 and 3 metres from the boiler.

The photographs taken at the inspection are attached as a Schedule to this Decision.

8.Hearing

This case called for an in person Hearing at Glasgow Tribunal Centre at 11.30 am on 18th November 2024.

The Tenant and her representative, Mr Heath, attended the hearing. The Landlord's solicitor and Miss Zmidzinska from Martin and Co also attended the hearing.

Both parties were provided with a copy of the schedule of photographs that the Ordinary member had prepared following the inspection on 10th June 2024. They advised that they did not require an adjournment to consider the detail of the photographs.

Ms Wooley had sent the Tribunal pages that had been omitted from the third inventory of productions on 7th November 2024. The Tenant and her representative did not object to them being lodged late.

Mr Heath had sent the Tribunal a statement by the Tenant on the morning of 18th November 2024. Ms Wooley was provided with a copy and did not object to it being lodged late. She advised that she did not require an adjournment to consider the detail of the statement.

In connection with the matters detailed in the application the parties advised as follows:

Dampness and Mould throughout the Property.

Mr Heath explained that the Tenant's main concern is in relation to the dampness in the main bedroom. The family cannot use that room. The Landlord had arranged for damp and mould treatment to be carried out to the internal walls of the Property on 1st November 2024.

The Tenant advised that there are five people residing in the Property. The heating is used in the morning and evening. The windows are left open during the day. The trickle vents in the windows are open. They occasionally used the dehumidifier. As part of the Pure Maintenance UK treatment plan, the Landlord had provided a hygrometer. It measures moisture and temperature. She understands that measurements are taken via an app but she has been unable to install the app. Ms Zmidzinska advised that she is working with the Tenant to make the app work.

Ms Wooley advised that she had noted the readings today. They were Temperature 14 degrees and humidity 83%.

The Tenant explained that since the Landlord has carried out the damp and mould treatments to the Property the dampness has generally improved but it has not improved in the main bedroom.

Ms Wooley advised that the Landlord has carried out a lot of work to the Property to address the damp and mould. The Landlord obtained a report by Pure Maintenance dated 25th June 2024. The Tribunal has been provided with a copy of the report and the recommended works were carried out. The Landlord intends to investigate the dampness in the corner of the bedroom further but considers this to be a separate issue and not part of this application. The Landlord wishes to ensure that the Tenant has a warm and clean Property.

Guttering and drainpipes need attention,

Mr Heath and the Tenant confirmed that they were satisfied that the guttering and drainpipes had been satisfactorily repaired and withdrew this part of the complaint.

Boiler and heating system.

Mr Heath and the Tenant confirmed that they were satisfied that the boiler had been satisfactorily repaired and some new radiators fitted and withdrew this part of the complaint.

Possible structural defect.

Ms Wooley advised that she considered this complaint to lack specification. The Landlord has carried out a significant amount of work to the Property. They have done everything possible to resolve the damp issues. Mr Heath explained that the reference to 'structural defect' was intended to refer to the possible cause of the dampness.

9. Decision

9.1 The Tribunal made the following findings in fact:

9.1.1 The Tenant leases the Property from the Landlord in terms of the Private Residential tenancy.

9.1.2 The start date of the tenancy was 1st September 2023.

9.1.3 The Tenant reported dampness to the Landlord on 2nd October 2023.

9.1.4 There is condensation and dampness in the Property as shown in the schedule of photographs produced.

9.1.5 The floor boards in the corner of the main bedroom are damp.

9.1.6 The Landlord has carried out the following repairs to the Property since the date of the Pure Maintenance UK report:

Visible mould was treated with a topical solution, air vents were unblocked, defective rendering was repaired.

9.1.7 The landlord has also carried out various works since the date of the application as detailed in the email from her agent to the Tribunal dated 20 June 2024:

New heating system thermostat was installed in December 2023.

Faulty down pipe at the front of the Property was repaired in January 2024.

Radiators in the kitchen and one of the bedrooms were replaced in February 2024.

A new radiator was installed in the bathroom in February 2024. A dampness inspection by TDB Preservation was completed on 14th February 2024.

A dehumidifier was provided in February 2024.

New extractor fans were installed in the bathroom and kitchen in April 2024.

9.1.8 The Landlord had installed a Hygrometer in the Property.

9.1.9 The reports from the Hygrometer are not yet available.

9.1.10 Cavity wall insulation had been installed in the walls of the Property.

9.2 It is a requirement of section 22(6) of the Housing (Scotland) Act 2006 that a Tenant must first notify the Landlord of works that require to be carried out for the purpose of complying with the repairing standard. The Tribunal found that the complaint 'possibly structural' was insufficiently detailed and they were unable to consider this part of the application further.

9.3 The Tribunal made the following determinations in relation to the following provisions of the Repairing Standard:-

9.3.1 Section 13(1)(a) of the Housing (Scotland) Act 2006: The Property is not wind and watertight and in all other respects reasonably fit for human habitation.

The Tribunal considered the fact that there is condensation and dampness within the Property. They acknowledged that the Tenant's position is that the Landlord is responsible for rectifying the dampness. The Landlord's position is that they have carried out the recommended works and the remaining dampness is due to condensation due to the Tenant's living conditions and failure to heat and ventilate the Property. The Landlord intends to investigate the damp floor boards in the main bedroom.

The Tribunal acknowledge the findings in the Pure Maintenance UK report which concludes that "the source of moisture contributing to the mould growth is condensation". The Tribunal also acknowledge that the Landlord has carried out recommendations in the report to improve ventilation and address the risk of moisture ingress including vents at front to be cleared and leaking waste from the flat above repaired. However, the Tribunal noted that not all of the vents to rear elevation are fully exposed as two remain partly below the ground level. The Landlord has made significant attempts to assist the Tenant in managing the moisture level which the report by Pure Maintenance states should be low enough to keep humidity below 60%. The report also states that some properties may need extra attention due to construction and usage patterns.

The Pure Maintenance UK report provides thermal imaging photographs and concludes that "the primary cause of condensation in your situation is the high humidity levels combined with cold spots on surfaces" The Tribunal was aware that cavity wall insulation had been installed in the Property and some of the sub floor vents were blocked and others had only recently been unblocked. They were unable to determine if the cavity wall insulation still operates effectively or is defective and contributing to the dampness and condensation in the Property.

The Tribunal also acknowledges that the Hygrometer will provide information as to how much moisture is inside the Property, how warm or cold the Property is and the level of humidity. This information will assist in determining the cause of the dampness, whether or not condensation is the only issue and what other measures could be taken by the Landlord to ensure the Property meets the repairing standard.

The Tribunal also consider that the fact that the Tenant first reported dampness to the Landlord several weeks after moving into the Property is suggestive of the fact that the dampness may not be wholly due to condensation caused by the Tenant's use of the Property.

Consequently, the Tribunal determine that the Property is not wind and watertight and in all other respects reasonably fit for human habitation.

9.4 The Tribunal accordingly determine that the Landlord has failed to comply with the duties imposed by sections 13(1)(a) and 14(1)(b) of the Act, for the reasons stated.

9.5. The decision of the Tribunal was unanimous.

10. 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

Signed

Chairperson

Date: 6th December 2024

Housing and Property Chamber
First-tier Tribunal for Scotland

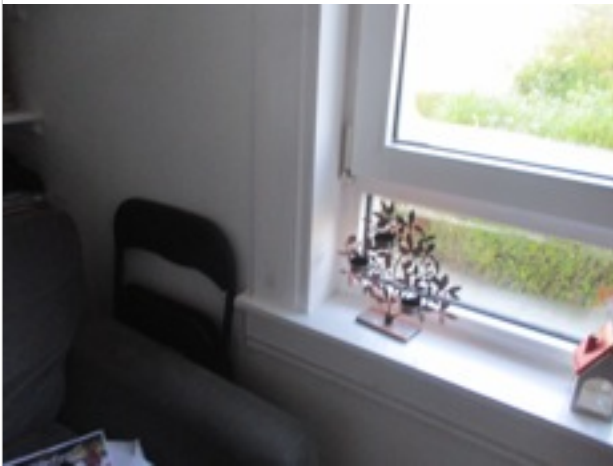


Schedule of photographs taken during the inspection of 43 Springfield Square,
Bishopbriggs G64 1PU by the First-tier Tribunal for Scotland (Housing and Property
Chamber) on Monday 18 November 2024

Reference Number : FTS/HPC/RP/24/0441



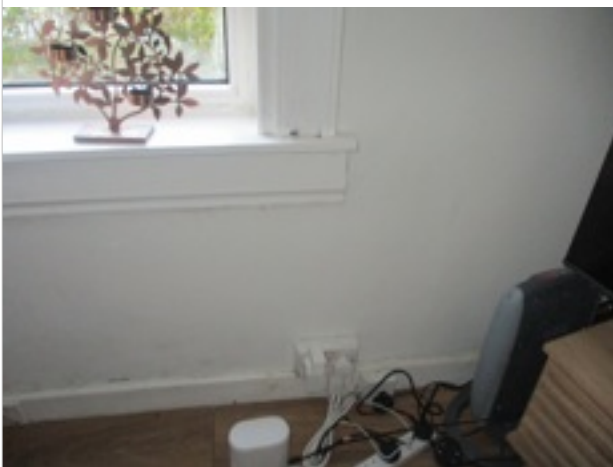
Front Elevation



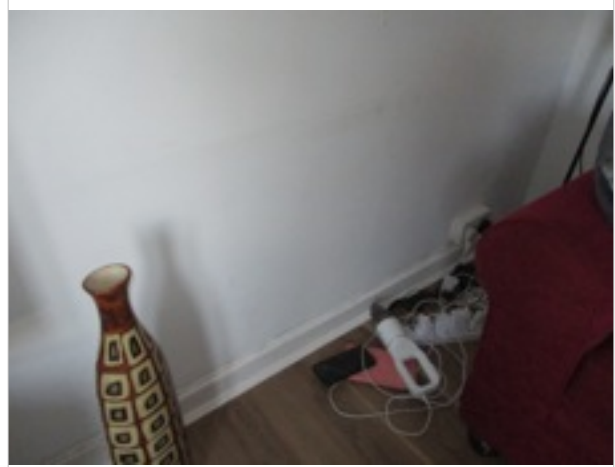
Living Room - front external wall to left of window



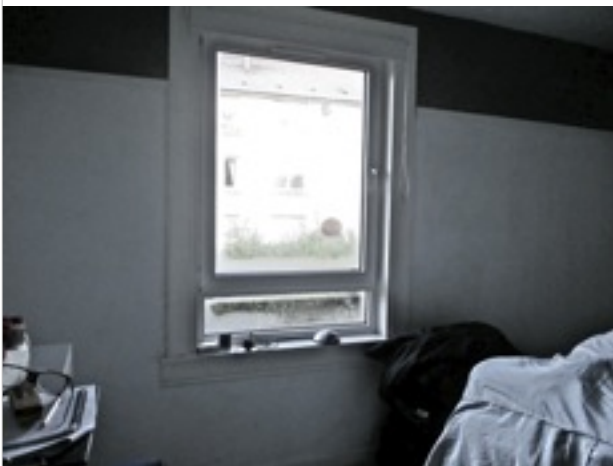
Living Room - front external wall below window



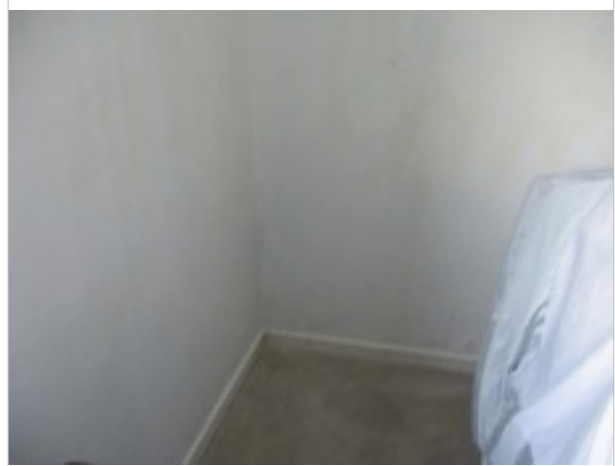
Living Room - front external wall to right of window



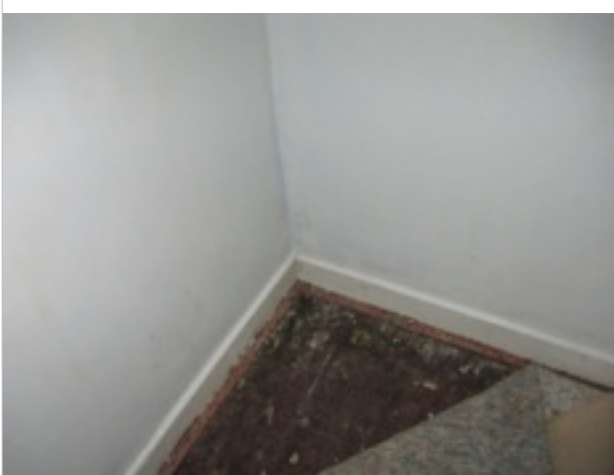
Living Room - base of internal wall adjoining front bedroom



Front Bedroom - front external wall - excessive moisture build up on wall surface



Front Bedroom - corner of front external and hip end walls - excessive moisture build up on wall surfaces



Front Bedroom - corner of front external and hip end walls/carpet lifted to expose floorboards which are damp/showing signs of mould growth



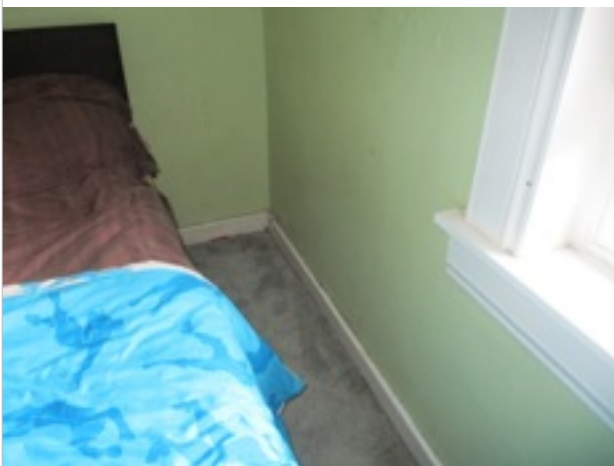
Front Bedroom - ceiling



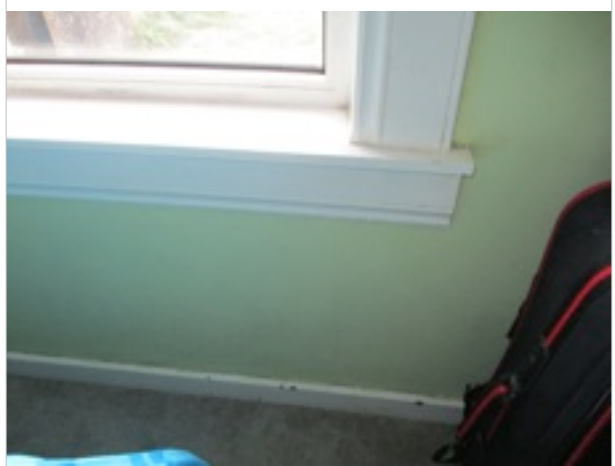
Front Bedroom - ceiling



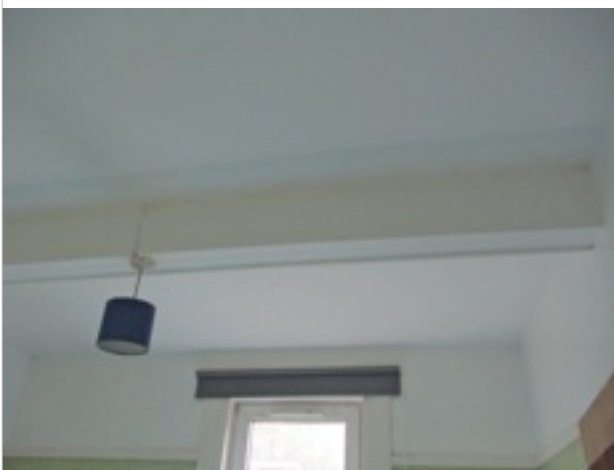
Rear Bedroom - rear external wall



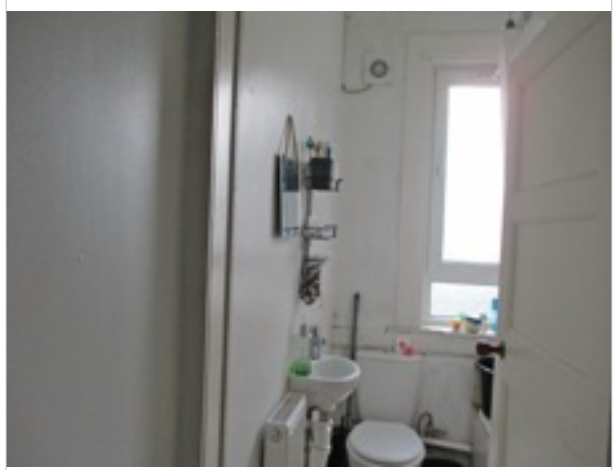
Rear Bedroom - corner rear external and hip end walls



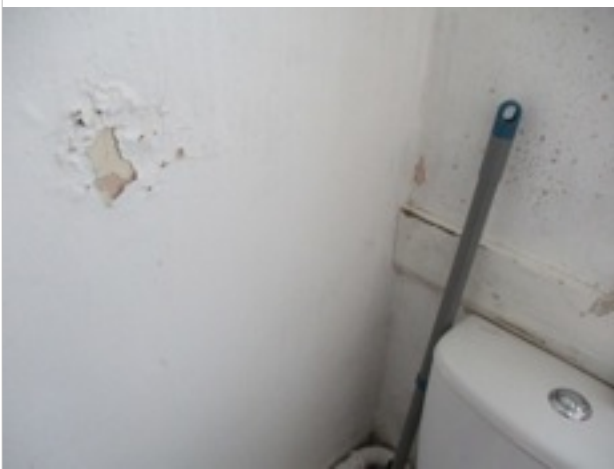
Rear Bedroom - base of rear external wall below and to right of window



Rear Bedroom - ceiling



Bathroom



Bathroom - internal wall adjoining rear bedroom - moisture build up on wall surface



Bathroom - rear external wall - moisture build up on wall surface



Bathroom - ceiling above bath



Bathroom - extractor fan



Kitchen



Kitchen - rear external wall



Kitchen - extractor fan



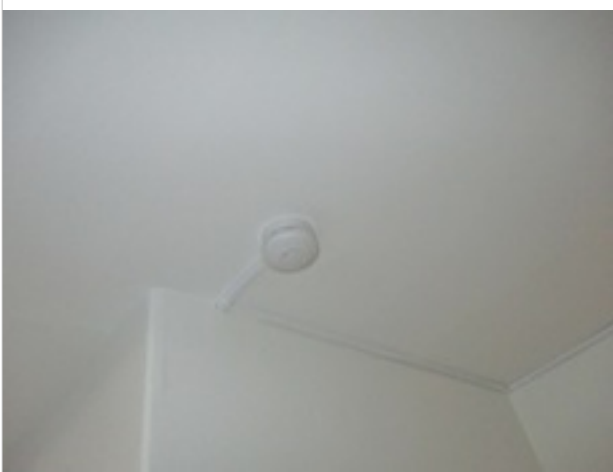
Bathroom - new radiator



Kitchen - new radiator



Rear Bedroom - new radiator



Living Room - ceiling mounted smoke detector (observation)



Hall - ceiling mounted smoke detector (observation)



Kitchen - wall mounted heat detector (observation)



Hall - boiler and carbon monoxide detector



Rear Elevation - cast iron downpipe and repaired waste pipe from UF flat



Rear Elevation - underfloor vent to left of back door - part obscured by ground level



Rear Elevation - new underfloor vent cover



Rear Elevation - underfloor vent part obscured by path/flower bed



Rear Elevation - roughcast patched



Hip End - roughcast patched



Corner of Hip End and Front Elevation - roughcast patched



Front Elevation - roughcast patched



Front Elevation - roughcast patched



Front Elevation - underfloor vent - cleared and situated well above ground level

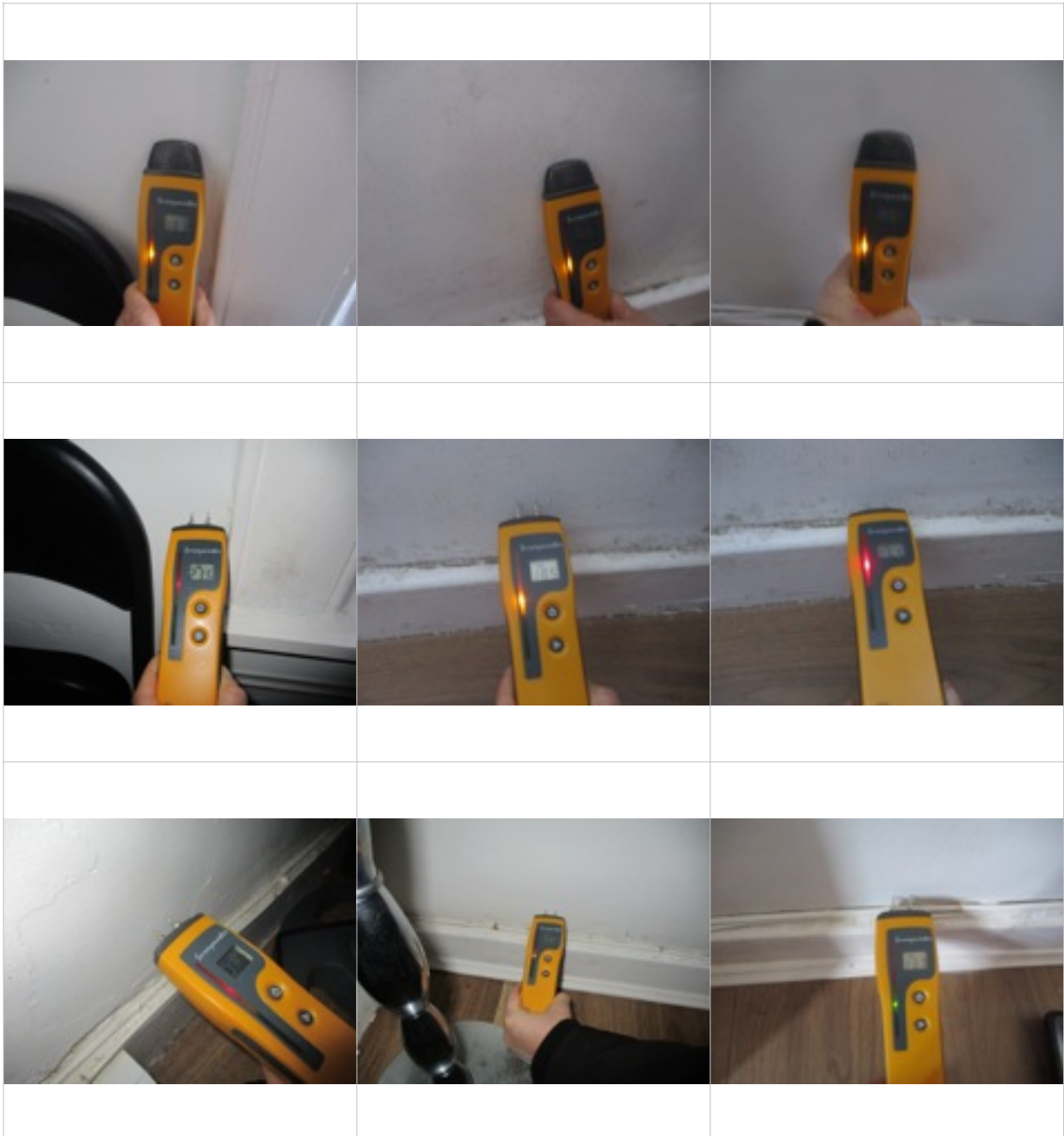


Front Elevation - underfloor vent - cleared and situated well above ground level

Damp Meter readings:

Living Room

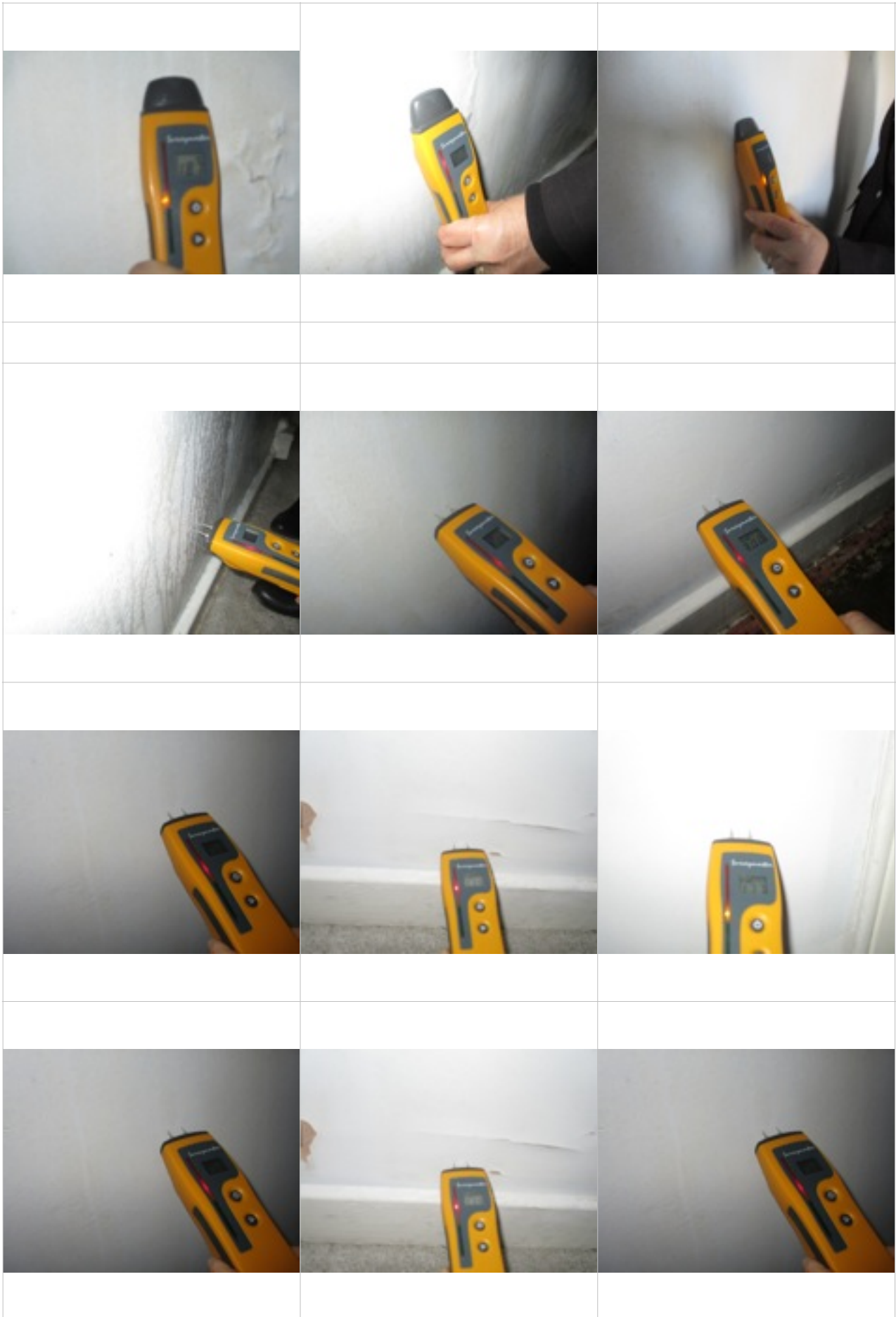
Damp Meter Readings in search mode and using probes along the base and up to 1 metre above floor level of the front external wall and internal wall adjoining front bedroom. Showing moderate and high moisture levels, reducing to low moisture levels towards entrance door on internal wall.



Main Front Bedroom

Damp meter readings in search mode and using probes along base and up to 1 metre above floor level of front and hip end external walls showing moderate and high moisture levels. Damp meter readings also taken to area of exposed floorboards in corner showing high readings and excessive moisture observed on surface of both walls. Moisture running down the hip end wall.







Rear Bedroom

Damp meter readings in search mode and using probes along the base and up to 1 metre above floor level on hip end and rear external walls showing moderate to high moisture levels





Bathroom

Damp meter readings in search mode and using probes to internal wall adjoining rear bedroom and external rear wall showing moderate to high moisture levels.



Kitchen

Damp meter readings in search mode and using probes to base and up to 1 metre above floor level on external rear wall to left of back door showing moderate to high moisture levels

