

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**First-tier tribunal for Scotland (Housing and Property Chamber)**

**Repairing Standard Enforcement Order (RSEO): Housing (Scotland) Act 2006  
Section 24**

**Chamber Ref: FTS/HPC/RP/16/1021**

**Title no: REN14646**

**Flat 3/1, 17 Lawn Street, Paisley, PA1 1HD  
("The property")**

**The Parties:-**

**Ms. Kuilin Liu, Flat 3/1, 17 Lawn Street, Paisley, PA1 1HD ("the Applicant")**

**Dr Jenny Wong and Mr Kai Chi Loi, 9/1, 15 Kirkton Avenue, Glasgow, G13 3PF  
("the Respondents")**

Whereas in terms of their decision dated 9 March 2017, the First-tier tribunal for Scotland (Housing and Property Chamber) ('the tribunal') determined that the respondents had failed to comply with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 ("The Act") and in particular that the respondents had failed to ensure at all times during the tenancy, that:-

- a) the house is wind and water tight and in all other respects reasonably fit for human habitation (section 13(1)(a));
- b) the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order (section 13(1)(b));
- c) the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order (section 13(1)(c));
- d) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order (section 13(1)(d)).
- e) any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed (section 13(1)(e));

the tribunal now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular, the tribunal requires:

1. The respondents, either themselves or with other owners of the properties at 17 Lawn Street, Paisley:
  - i. to instruct a reputable contractor, specialising in roofing and roof repairs, to carry out an inspection to ascertain the cause of water damage to the ceiling and walls of the front and rear bedrooms at the property;
  - ii. to instruct said contractor to prepare a report identifying the cause of the water damage, and the nature and type of works necessary to make the property wind and water tight, and to put the roof, drains and gutters in a reasonable state of repair and proper working order;
  - iii. to submit a copy of said report to the tribunal;
  - iv. to instruct said contractor to carry out the works identified in the report;
  - v. to instruct said contractor to provide confirmation in writing that that said works have been carried out;
  - vi. and to submit a copy of said written confirmation to the tribunal.
2. The respondents to make good any part of the ceiling or walls of the front and rear bedrooms subject to water damage.
3. The respondents, either themselves or with other owners of the properties at 17 Lawn Street, Paisley, to repair or replace the close entry door lock, so as make the door secure.
4. The respondents to repair or replace the hot water cylinder and immersion heater in the attic, or to take such other steps as are necessary to ensure that the installations for the supply of hot water through the hot water taps in the bath, wash hand basin and kitchen sink are in proper working order.
5. The respondents to replace the bathroom extractor fan with a fan which extracts air to outside the building, rather than into the roof space.
6. The respondents to instruct a reputable contractor to carry out an inspection of the electrical hob in the kitchen, in order to check whether it is in proper working order, and: (i) in the event that said contractor finds it to be in proper working order, to instruct the contractor to prepare a report confirming that it is in proper working order, and submit a copy to the tribunal; or (ii) in the event that said contractor finds the electrical hob not to be in proper working order, to repair or replace same.
7. The respondents to replace the chairs provided by them, on which there are no labels attached to indicate that they comply with the Furniture and Furnishings (Fire Safety) Regulations 1988, with chairs so labelled.

The tribunal order that the works specified in this Order must be carried out and completed within the period of **eight weeks** from the date of service of this Notice.

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.

In witness whereof these presents type written on this and the preceding page(s) are executed by Adrian Stalker, advocate, Advocates Library, Parliament House, Edinburgh, chairperson of the tribunal at Edinburgh on 9 March 2016, before this witness:-

\_\_\_\_\_ witness  
C Ballantine \_\_\_\_\_ name in full  
\_\_\_\_\_ Address  
Westwater Achsate  
EDW BERTH  
ETHIRF.

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**First-tier tribunal for Scotland (Housing and Property Chamber)**

**STATEMENT OF DECISION: Housing (Scotland) Act 2006, Section 24(1)**

Chamber Ref: FTS/HPC/RP/16/1021

**Flat 3/1, 17 Lawn Street, Paisley, PA1 1HD**  
("The property")

The Parties:-

**Ms. Kuilin Liu, Flat 3/1, 17 Lawn Street, Paisley, PA1 1HD** ("the applicant")

**Dr Jenny Wong and Mr Kai Chi Loi, 9/1, 15 Kirkton Avenue, Glasgow, G13 3PF** ("the respondents")

**Tribunal Members:**

Adrian Stalker (Chairman) and Kingsley Bruce (Surveyor Member)

### **Decision**

The First-tier tribunal for Scotland (Housing and Property Chamber) ('the tribunal'), having made such enquiries as it saw fit for the purposes of determining whether the respondents have complied with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 in relation to the house concerned, determined that the respondents had failed to comply with the duty imposed by section 14(1)(b) of the Act.

### **Background**

1. By an application to the Housing and Property Chamber received on 13 December 2016, the applicant sought a determination of whether the respondents had failed to comply with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. The application contended that the respondents had failed to comply with their duty to ensure that the house meets the repairing standard under section 13 of the 2006 Act, and in particular, that the respondents had failed to ensure, at all times during the tenancy, that:-
  - a) the house is wind and water tight and in all other respects reasonably fit for human habitation (section 13(1)(a));



- b) the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order (section 13(1)(b));
  - c) the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order (section 13(1)(c));
  - d) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order (section 13(1)(d)).
  - e) any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed (section 13(1)(e));
  - f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire (section 13(1)(f));
  - g) the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health (section 13(1)(g)).
3. On 28 December 2016, a Convener having delegated powers under section 23A of the Act made a decision, under section 23(1)(a), to refer the application to a First-tier tribunal.
  4. The tribunal served Notice of Referral under and in terms of schedule 2, paragraph 1 of the Act upon both the respondents and the applicant by letter dated 13 January 2017.
  5. Following service of the Notice of Referral the applicant and the respondents made written representations to the tribunal. Throughout the application process, the applicant has been represented by Jennifer Love, Housing Adviser, Shelter (Scotland), Breckenridge House, 274 Sauchiehall Street, Glasgow. All written representations on the applicant's behalf have been made by Ms Love. All representations for the respondents have been made by the first respondent Dr Wong. During the course of the inspection and hearing the tribunal learned that the second respondent lives abroad, and plays no part in the conduct of the tenancy.
  6. The tribunal inspected the property on the morning of 20 February 2017. The applicant and Dr Wong were present during the inspection. Later that morning the tribunal held a hearing at Wellington House, Glasgow. Again, the applicant and Dr Wong were present. At the hearing, the applicant was represented by Ms Love. The applicant is Chinese. Her English is quite good. However, she is not a fluent English speaker. For that reason, a Chinese interpreter, Ms Hansong Xia, of Global Connects, Glasgow, attended the hearing. She assisted the applicant in understanding and answering questions. Ms Hansong Xia did not attend the inspection. At the beginning of the inspection, the tribunal advised the applicant that, if she had difficulty in understanding anything said during the course of the inspection, she should ask for it to be repeated to her. The tribunal was

satisfied that the applicant was able to participate adequately in the inspection, notwithstanding the lack of an interpreter.

### **Summary of the issues**

7. Attached to the application was a list of "Details of Repairs Outstanding as of 13<sup>th</sup> December 2016." These were:
  - (a) There is only one smoke alarm in the property and this is battery operated.
  - (b) No electrical installation inspection appears to have been carried out and a report has not been made available.
  - (c) Hot water is still not available in the bathroom.
  - (d) The hob part of the cooker was recently replaced by the landlord, however it appears to be second-hand and has an intermittent fault.
  - (e) There is no operating extractor fan in the internal bathroom.
  - (f) There are areas of damp in the ceiling and walls of the front and back rooms.
  - (g) The close door entry security system does not work which allows anyone to access the close. There is a strong smell of urine in the close.
  - (h) There are no labels on the furnishings provided to indicate that they comply with the Furniture and Furnishings (Fire Safety) Regulations 1988 (as amended).
8. By the date of the inspection and hearing, it was apparent that Dr Wong had addressed certain of these issues. This is acknowledged in the representations made by Ms Love on behalf of the applicant, dated 1 February 2017.

### **Findings in fact**

9. The tribunal finds the following facts to be established:-
  - i. The tenancy is an assured tenancy under the Housing (Scotland) Act 1988.
  - ii. The date of commencement of the current tenancy was 23 August 2016 ("the beginning of the tenancy").
  - iii. The property is a top floor flat in a Victorian tenement building. It comprises a hall, bathroom and kitchen, and two larger rooms, one to the front and one to the rear of the building. In each of these rooms there are double beds. The kitchen is accessed through the rear bedroom. The applicant principally occupies the front bedroom. She sleeps there, and keeps her belongings there.
  - iv. At the beginning of the tenancy, there was only one smoke alarm in the property. It was battery operated.
  - v. After the current application was lodged, Dr Wong took steps to install functioning smoke alarms in the hall and the two bedrooms, and a heat alarm in the kitchen.

- vi. At the beginning of the tenancy, no electrical safety inspection had been carried out, in accordance with sections 19A and 19B of the Act.
- vii. Dr Wong arranged for such an inspection to be carried out, by Arrow Electrics UK Ltd, on 26 January 2017. A copy of the inspection report was provided to the tribunal.
- viii. In the past, hot water was provided to the property through a hot water cylinder and immersion heater in the attic. At the beginning of the tenancy, this was not functioning. As a consequence, there was no hot water supplied to the hot water taps in the bath and wash hand basin in the bathroom, or to the sink in the kitchen.
- ix. In November 2016, following complaints by the applicant, Dr Wong endeavoured to address this problem by arranging for the installation of water heater in the kitchen.
- x. This heater has limited capacity. As result, the water from the hot water taps in the kitchen and bathrooms runs hot and cold. It is not possible to run a bath using the hot water tap in the bath, running continuously as would reasonably be anticipated, because of the substantial delays between periods when hot water is available to run from the tap.
- xi. The kitchen has an electric hob with four rings. After being switched on, each of rings frequently switches itself off and on again.
- xii. At the beginning of the tenancy, there was no extractor fan in the bathroom.
- xiii. After this application was lodged, Dr Wong arranged for an extractor fan to be fitted in the bathroom. However, it extracts air into the attic space. This creates a risk of the build-up of moist air in the attic space, leading to a dampness problem.
- xiv. Accordingly, the appliance for the extraction of air from the bathroom is not in proper working order.
- xv. It is evident, even on a visual inspection from ground level, that the roof of the building is in very poor condition, and in urgent need of substantial repair work. In particular, the guttering is choked and overflowing, particularly at the front of the building. A number of roof tiles are missing. Furthermore, the degree of water ingress and consequent internal damage is indicative of other defects.
- xvi. For example, part of the ceiling at the top of the common stairs has collapsed, and there is an imminent danger of further collapse of the ceiling in this area.
- xvii. There has also been significant water ingress causing staining on the ceiling and walls of both principal rooms.
- xviii. The property is not wind and watertight.
- xix. The lock on the close door is broken. As a result, it is incapable of being locked.
- xx. There are no labels on two chairs supplied by Dr Wong, to indicate that they comply with the Furniture and Furnishings (Fire Safety) Regulations 1988 (as amended).
- xxi. The property was the subject of an inspection by Renfrewshire Council in October 2016. The Council has arranged a meeting for



- resident and non-resident owners in the building to discuss necessary common repairs, on 22 February.
- xxii. Dr Wong has made arrangements to attend this meeting. She intends to work with other building owners to address outstanding common repairs issues.

Evidence was given in relation to these points by the applicant and Dr Wong. Most of the above points were apparent to the Tribunal during the course of the inspection. It should be noted that point xv. was not a matter of complaint in the application. It is mentioned as tending to support the conclusion that, for the purposes of section 13(1)(b) of the Act, the structure and exterior of the building (including drains, gutters and external pipes) are not in a reasonable state of repair and in proper working order,

### **Reasons for the decision**

10. Of the points (a) to (h) listed at paragraph 7 above, being the complaints made in the application, the Tribunal was satisfied that points (a) and (b) had been addressed.
11. As regards point (c), Dr Wong pointed out that the bath could be filled with hot water using the electric shower. However, the issue is whether, for the purposes of section 13(1)(c) of the Act, "the installations in the house for ...heating water are in a reasonable state of repair and in proper working order". As at the beginning of the tenancy, the installations for the supply of hot water, being the hot water cylinder and immersion heater in the attic, were inoperable. The measures taken by Dr Wong to address this problem are inadequate. The hot water taps in the kitchen and bathroom run hot and cold. It is not possible to run a bath using the hot water tap in the bath, running the tap continuously as would reasonably be anticipated, because of the substantial delays between periods when hot water is available to run from the tap. The suggestion that the tenant could use the electric shower to fill the bath is insufficient to address the issue and would not address the adequacy of the hot water supply. Therefore the property does not meet the repairing standard in respect of section 13(1)(c).
12. As regards point (d), the tribunal was unsure whether the hob rings switching on and off was due to a design feature in the hob, the purpose of which was to avoid overheating. The applicant insisted that the rings operated such that it was impossible to sustain the necessary level of heat for some cooking tasks, such as boiling water. The applicant was also dissatisfied that the hob was second hand. The tribunal explained that this was not, in itself, a breach of the repairing standard. On balance, the tribunal was not satisfied that the hob was in proper working order.
13. As regards point (e) the tribunal concluded, on a balance of probabilities, that the moist air from the bathroom was being extracted to the roof space above the property, as there was no evidence of it being extracted outside the building. The extraction of air into the roof space is contrary to the



current building regulations, to which the tribunal must have regard, under section 13(2). It creates the risk of causing damp conditions within the building as a result of the accumulation of moist air in the roof space. Accordingly, the tribunal concluded that the appliance for the extraction of air from the bathroom is not in proper working order, for the purposes of section 13(1)(d).

14. As regards point (f), Dr Wong gave evidence that water damage had been caused to ceiling in the rear bedroom as a result of a leak in a boiler in the attic, caused during repair work. However, the tribunal was satisfied that substantial water damage had also been caused to the ceiling and walls of that room as a result of disrepair in the roof.
15. It is clear that substantial repairs are required to the roof and guttering of the building, which appear not to have been properly maintained for many years. To carry out the repairs properly may be costly. In order for those repairs to be effected, Dr Wong will require to co-operate with other owners in the building, and probably with the local authority. That process may take some time. The tribunal informed Dr Wong that, in the event that she is unable to comply with the RSEO within the stipulated time limit, she may apply for a variation under section 25 of the Act.
16. The tribunal did not understand point (g) to be disputed by Dr Wong. The close door forms part of the structure and exterior of the building. It is not in proper working order, for the purposes of section 13(1)(b).
17. As regards point (h), this complaint was only outstanding in relation to two chairs. The tribunal takes the point, made by Dr Wong, that the chairs in the room used for the tribunal hearing also do not have labelling under the 1988 regulations. However, those chairs are not subject to the repairing standard under the 2006 Act. The tribunal could not be satisfied that the chairs complied with the 1988 regulations. Consequently, it could not be satisfied that the chairs are capable of being used safely for the purpose for which they are designed, as required by section 13(1)(e) of the Act.

### **Decision**

18. The tribunal accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act.
19. In particular, the tribunal determined that the property fails to meet the repairing standard in terms of section 13(1)(a) and (b), given findings in fact xv to xviii and paragraphs 14 and 15 above.
20. The tribunal also determined that the property fails to meet the repairing standard in terms of section 13(1)(b), given finding xix, and paragraph 16 above.

21. The tribunal determined that the property fails to meet the repairing standard in terms of section 13(1)(c), given findings in fact viii to x, and paragraph 11 above.
22. The tribunal determined that the property fails to meet the repairing standard in terms of section 13(1)(d), given findings in fact xi to xiv, and paragraphs 12 and 13 above.
23. The tribunal determined that the property fails to meet the repairing standard in terms of section 13(1)(e), given finding in fact xx and paragraph 17 above.
24. The tribunal determined that the property meets the repairing standard in terms of section 13(1)(f) and (g), given finding in fact v, and paragraph 10 above.
25. The tribunal was also satisfied that, as at the date of the inspection, the respondents had now complied with their duties under sections 19A and 19B of the Act, given finding in fact vii, and paragraph 10 above.
26. The tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(2) of the 2006 Act, which Order is referred to for its terms.
27. The decision of the tribunal was unanimous.
28. **In terms of section 46 of the Tribunals (Scotland) Act 2014, a party 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.**
29. 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.

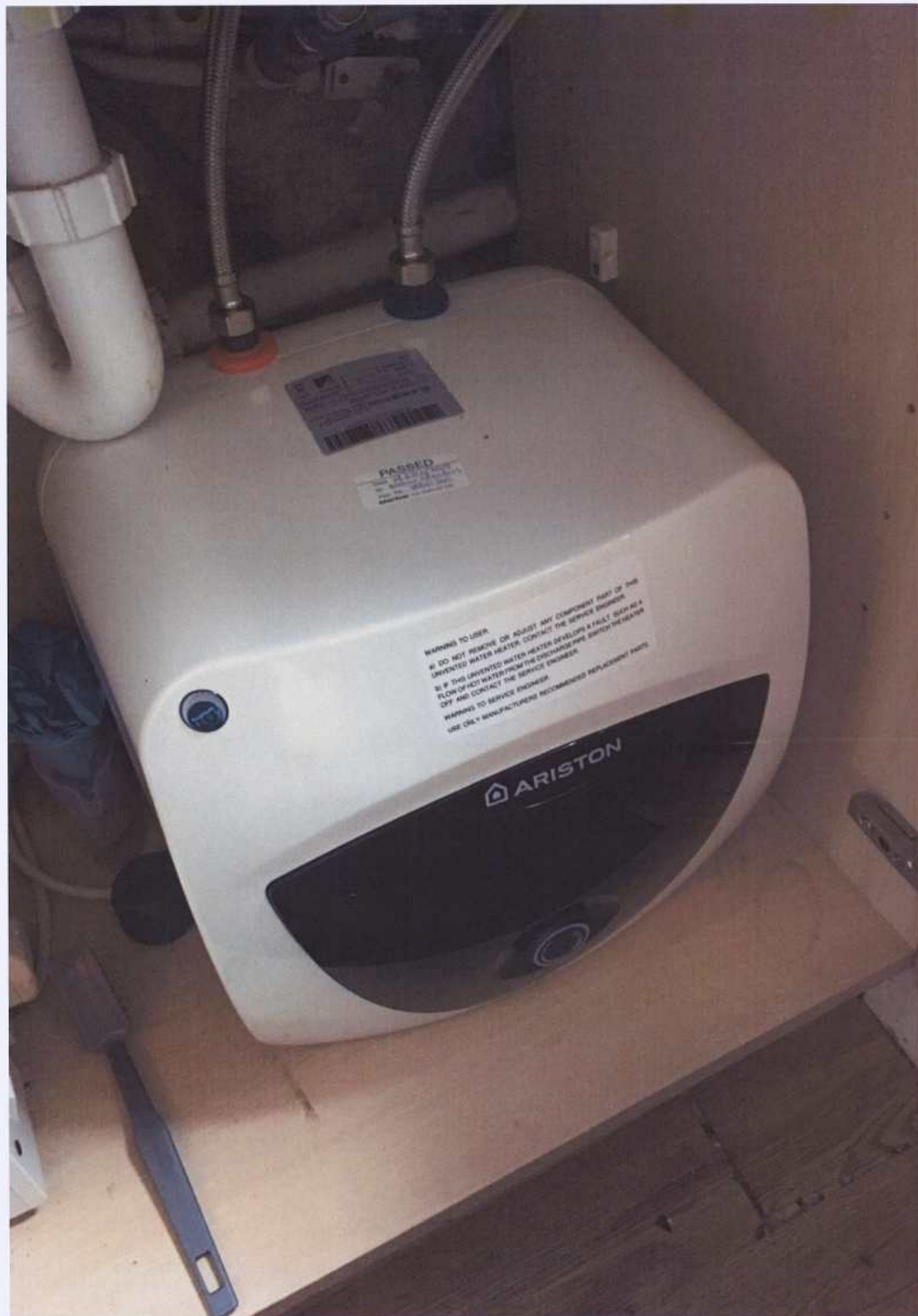
Signed

A. Stalker

Date

.....9/3/17.....

Chairperson



Technical specifications label with a barcode and model information.

PASSED  
Inspected by: [illegible]  
Date: [illegible]

WARNING TO USER:  
1. DO NOT REMOVE OR ADJUST ANY COMPONENT PART OF THIS  
UNVENTED WATER HEATER. CONTACT THE SERVICE ENGINEER.  
2. IF THIS UNVENTED WATER HEATER DEVELOPS A LEAK, SUCH AS A  
FLOW OF HOT WATER FROM THE DISCHARGE PIPE, STOP THE HEATER  
OFF AND CONTACT THE SERVICE ENGINEER.  
WARNING TO SERVICE ENGINEER:  
USE ONLY MANUFACTURER'S RECOMMENDED REPLACEMENT PARTS.

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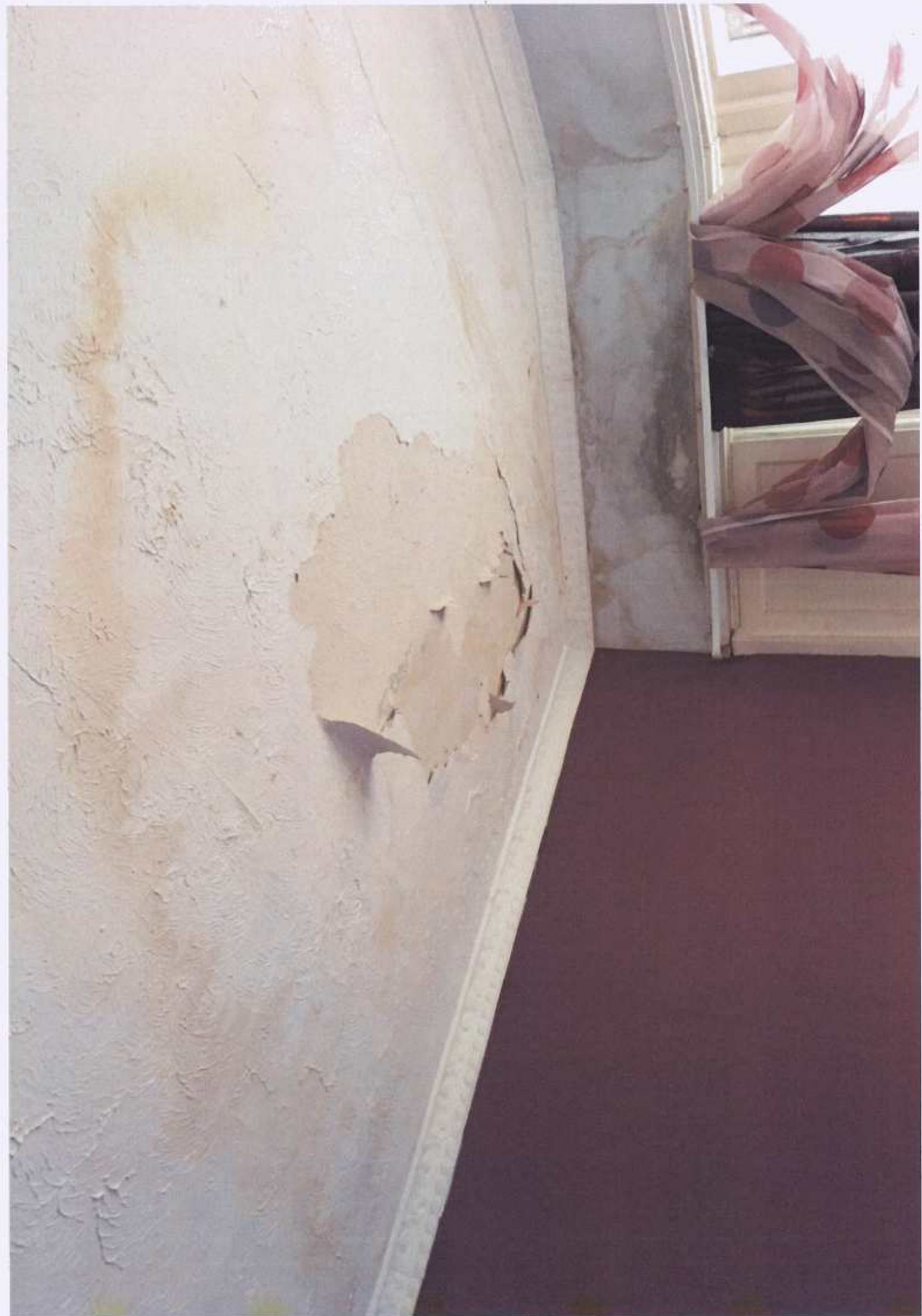
































# CAUTION

Installation has wiring colours  
in two versions of BS 7671.

It must be taken before  
any extension, alteration or repair  
conductors are correctly identified.



# IMPORTANT

This installation should be periodically inspected  
and tested and a report on its condition obtained  
as prescribed in the IET Wiring Regulations BS 7671  
Requirements for Electrical Installations.

Date of last inspection: 26/01/2012

Recommended date of next inspection: 26/01/2012



ADDITIONAL ELECTRICAL INFORMATION  
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