



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

STATEMENT OF DECISION

Housing (Scotland) Act 2006 Section 24(1) ('the Act')

Chamber Ref: FTS/HPC/RT/19/1744

Property at Flat 0/1, 221 Langside Road, Glasgow G42 8XY

Land Register Title Number GLA81313

('the Property')

PARTIES:

Mr Florin Teglas, Flat 0/1, 221 Langside Road, Glasgow G42 8XY

('the Tenant')

Mrs Rukhsana Ahmed, 25 Hillside Road, Glasgow G43 1DB

('the Landlord')

TRIBUNAL MEMBERS:

Joseph C Hughes (Legal Member)

Andrew McFarlane (Ordinary Member/Surveyor)

Gary Colquhoun (Clerk of tribunal)

SUMMARY OF DECISION:

1. The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal'), having made such enquiries as it saw fit for the purpose of determining whether the Landlord has complied with the duty imposed by Section 14(1)(b) of the Act in relation to the Property, and taking into account the written documentation submitted by the parties and all other representations, determined the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act;
2. The tribunal proceeded to make a Repairing Standard Enforcement Order ('RSEO') as required by Section 24(2) of the Act; and
3. The decision of the tribunal was unanimous.

BACKGROUND:

4. By Application dated 3rd June 2019 and received on 6th June 2019 ('the Application'), a Third Party Applicant, namely Glasgow City Council, applied on behalf of the Tenant to the tribunal in terms of Section 22 (1A) of the Act for a Determination as to whether the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Act.
5. The Property has been let to the Tenant by a Short Assured Tenancy Agreement. A copy was lodged with the Tribunal. The tenancy commenced on 10th November 2017 with a Rent of £450 per calendar month.
6. The original Application stated that the Tenant considered that the Landlord had failed to comply with her duty to ensure that the Property meets the Repairing Standard.
7. The Tenant considered that the Landlord is in breach of her duty under the Housing (Scotland) Act 2006 in relation to the Repairing Standard and in particular the Landlord has failed to ensure compliance with the following paragraphs of Section 13(1) of the Act:
 - (d) Any fixtures, fittings and appliances provided by the Landlord under the tenancy are capable of being used safely for the purpose for which they are designed;
 - (f) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire; and
 - (g) The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

8. The Application listed the issues which the Tenant considered to be outstanding. By reference to the Application and additional papers, the following issues were noted to be:

- (i) Installation of hardwired smoke detectors;
- (ii) No CO2 monitor;
- (iii) Broken extractor fan in bathroom;
- (iv) Broken toilet cistern and
- (v) Broken window in living room.

9. By Minute dated 12th June 2019 a Legal Member of the Tribunal, with delegated powers made a Decision to refer the Application to a Tribunal in terms of Rule 9 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 as amended ('the Rules').

10. On 17th June 2019 the Tribunal intimated a Decision to refer the Application to a tribunal for determination under Section 23(1) of the Act. The Tribunal served a Notice of Referral, Inspection and Hearing upon the Tenant and the Landlord.

11. The appointed tribunal inspected the Property on 7th August 2019 at 10am with a Hearing at 11.30am within the Glasgow Tribunals Centre, 20 York Street, Glasgow.

Mr Gary Colquhoun facilitated as Clerk to the tribunal during the Inspection and the Hearing.

THE INSPECTION AND SCHEDULE OF PHOTOGRAPHS:

12. The tribunal attended at the Property for the purposes of inspection as planned. The Tenant was not present during the inspection. His wife was present with her young son. Contact was made with the Tenant by phone. He confirmed he was working and unable to attend the inspection or the hearing. The Tenant consented to the tribunal inspection taking place. The Landlord was not present at the Inspection. An internal and external inspection of the Property took place in the presence only of the Tenant's wife.

13. The Property is a ground floor flat of traditional construction. It is laid out to provide entrance hall, living-room, two bedrooms, kitchen and toilet/shower room.

14. The tribunal inspected the Property room by room to ensure that all the matters raised by the Tenant were noted. The conclusion of the Inspection is recorded within the Findings of Fact.

15. During the Inspection, the following was noted:

- (a) There were no smoke alarms or heat detectors present. We observe that the cover to the electrical consumer control unit in the hall was missing exposing conductors;
- (b) The gas boiler for the heating system is located in the kitchen. No Carbon Monoxide Monitor was present;
- (c) Within toilet/shower room the casing to the extractor fan was noted to be missing and the fan itself was not working;
- (d) Within toilet/shower room the cistern lid was displaced and the flushing mechanism could not be operated;
- (e) The living room window facing onto the street is uPVC framed with sealed double glazed units. The outer pane to the lower double glazed unit to the left (when viewed from the inside) is cracked.

16. A Schedule of Photographs taken during the Inspection by the Ordinary Member is attached to this Statement of Decision and executed as relative hereto.

THE HEARING:

17. The Hearing took place at Glasgow Tribunals Centre within Room 112. The Tenant did not attend. The Landlord was not present. The tribunal clerk contacted the Landlord by telephone to ascertain if she was planning to attend the hearing. She indicated that she had forgotten about the hearing but was aware of the hearing taking place today. She stated she would not be able to attend. She briefly commented (on loud speaker in the presence of the tribunal members) that the Tenant had removed the smoke alarms she had fitted in the Property.

The tribunal deliberated further on how to proceed. The tribunal thereafter attempted to contact the Landlord on two further telephone calls. These calls simply went to answer phone. The tribunal elected to proceed with the hearing in the absence of the parties as both parties were aware of the hearing which had been duly intimated to them in writing.

18. The issue to be determined is whether the Property meets the Repairing Standard as laid down in Section 13 of the Act and whether the Landlord has complied with the duty imposed by Section 14(1)(b) of the Act.

FINDINGS OF FACT:

19. The tribunal finds the following facts to be established:

- (a) The Landlord is the registered owner of the Property;
- (b) A tenancy exists between the Tenant and the Landlord;

- (c) The Tenant took possession of the Property on 10th November 2017 with a rental of £450 per calendar month;
- (d) No smoke alarms or heat detectors are present within the flat. This is a breach of Section 13(1)(f) of the Act;
- (e) The gas boiler for the heating system is located within the kitchen. No Carbon Monoxide Monitor is present. This is a breach of Section 13(1)(g) of the Act;
- (f) The casing to the extractor fan located within the toilet/shower room was noted to be missing and the fan itself was not working. This is a breach of Section 13(1)(c) of the Act;
- (g) The cistern lid within the toilet/shower room was displaced and the flushing mechanism could not be operated. This is a breach of Section 13(1)(c) of the Act;
- (h) The outer pane to the lower double glazed unit to the left (when viewed from the inside) within the front living-room is cracked. This is a breach of Section 13(1)(b) of the Act. The Application does not specifically refer to this Repairing Standard but the tribunal concluded that the cracked window should be placed within Section 13(1)(b) of the Act.

DECISION:

20. The tribunal was satisfied that all the issues raised within the Application failed to meet the Repairing Standard as specified within Sections 13 (1)(b), (c), (f) and (g) of the Act.
21. Because the tribunal determined that the Landlord has failed to fully comply with the duty imposed by Section 14(1)(b) of the Act, it must require the Landlord to carry out the works necessary for meeting the Repairing Standard and have therefore issued an RSEO all in terms of Section 24(2) of the Act.
22. The broken window is not in a reasonable state of repair having regard to the age, character and prospective life of the Property and the locality in which it is located. Section 13(1)(b) applies.
23. There is no window or other fixed ventilation in the toilet/shower room containing the WC. Mechanical ventilation is required to comply with building regulations. Section 13(1)(c) of the Act applies.
24. The cistern is an installation for sanitation. Section 13(1)(c) of the Act applies.
25. Scottish Government has issued revised guidance for private landlords for satisfactory provision for detecting and warning of fires. This requires, from 1st March 2019, either mains-operated alarms or tamper-proof long life lithium battery alarms. To comply with the Repairing Standard there should be at least one functioning smoke alarm in the room which is frequently used for general day time living

purposes (in this case the living room); one functioning smoke alarm in every circulation space (in this case the entrance hall); one heat alarm in the kitchen. All alarms should be ceiling mounted and interlinked. Section 13(1)(f) of the Act applies.

26. Scottish Government has issued statutory guidance for the provision of Carbon Monoxide alarms in private rented housing. This requires one Carbon Monoxide detector in every space containing a fixed combustion appliance (in this case the kitchen). Section 13(1)(g) of the Act applies.

27. The Decision of the tribunal is unanimous.

28. The tribunal proceeded to make an RSEO as required by Section 24(1) of the Act. The works specified within the RSEO must be carried out and completed within the period of 30 DAYS from the date of service of Notice of the RSEO.

REASONS FOR DECISION:

29. The tribunal considers that the Landlord has had sufficient time to address her duty in respect of ensuring the Property meets the Repairing Standard. The issues had previously been intimated to the Landlord by the Third Party in writing on at least two separate occasions.

30. The tribunal considers that the Landlord has failed in her duty under Section 14(1) (b) of the Act and has not complied with the Repairing Standard in terms of Sections 13(1)(b),(c),(f) and (g) of the Act.

RIGHT OF APPEAL:

31. A Landlord, Tenant or Third Party Applicant aggrieved by the Decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the Decision was sent to them.

EFFECT OF SECTION 63:

32. Where an Appeal is made, the effect of the Decision and the Order is suspended until the Appeal is abandoned or finally determined. Where the Appeal is abandoned or finally determined by confirming the Decision, the Decision and the Order will be treated as having effect from the day on which the Appeal is abandoned or so determined.

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'Joseph Christopher Hughes'

Legal Member and Chair [Housing and Property Chamber]

Dated 12th August 2019



Property Address

Flat 0/1
221 Langside Road
Glasgow
G42 8XY

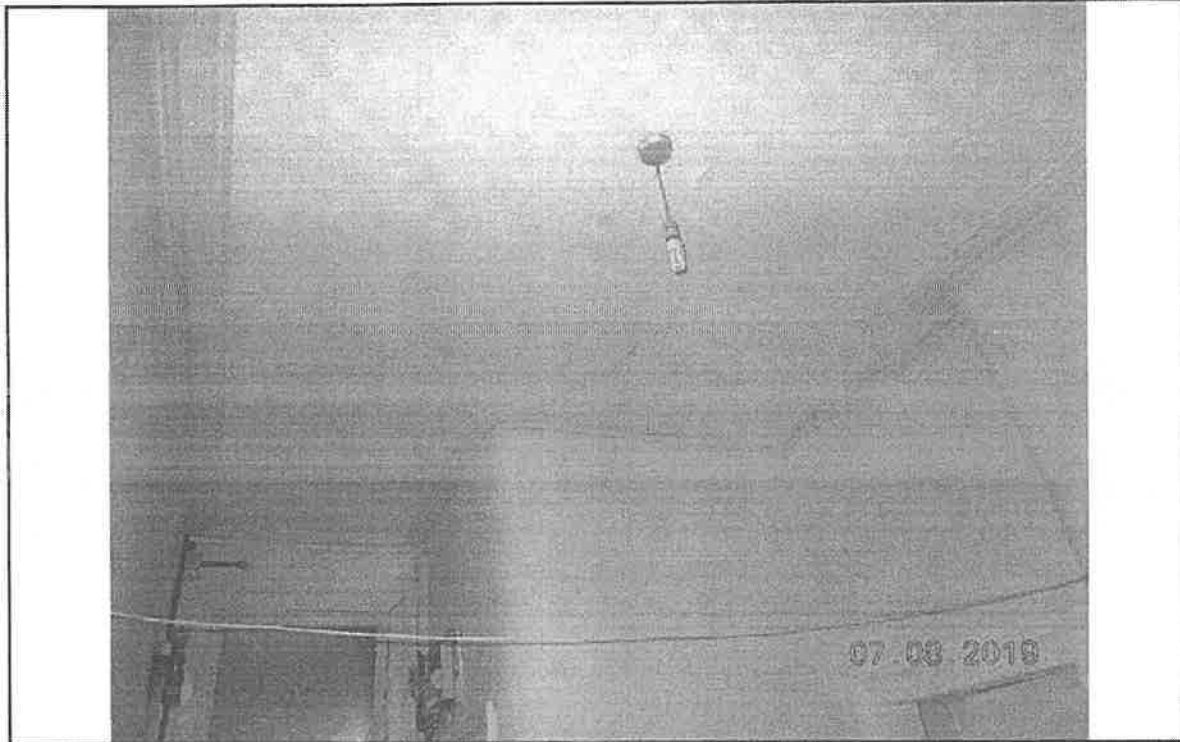
Case Reference

FTS HPC RT 19 1744

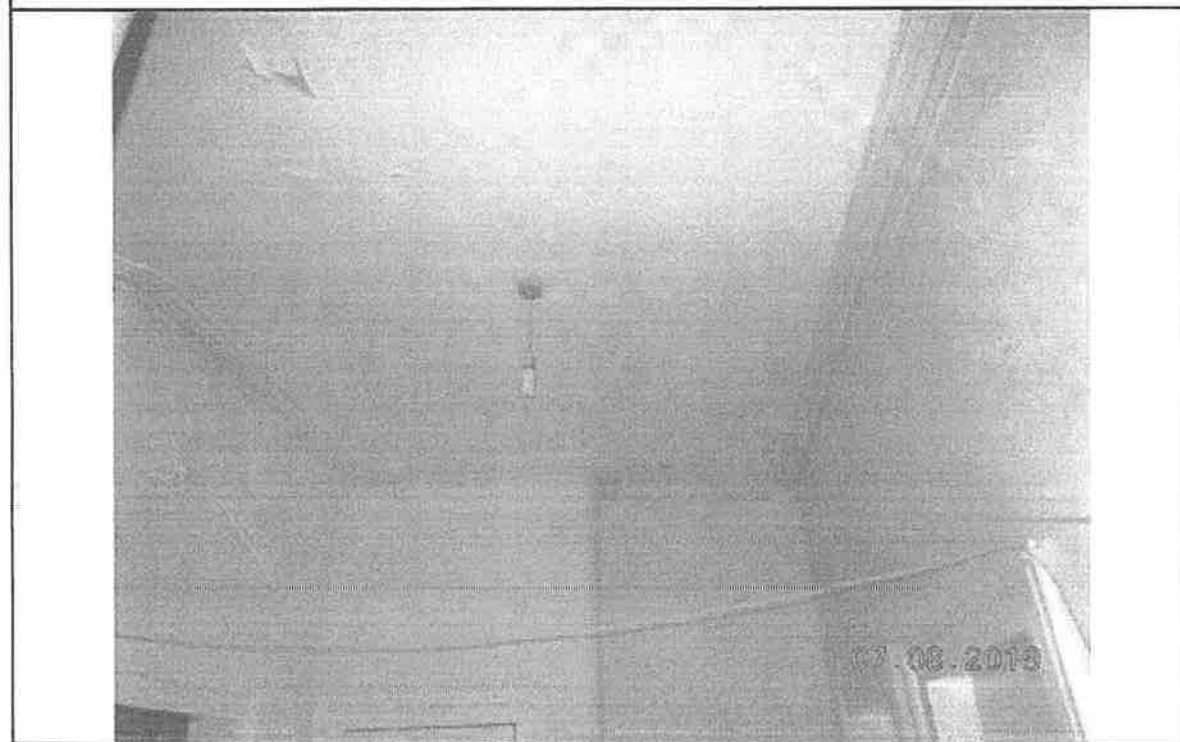
Schedule of Photographs taken during the inspection by tribunal members on 7 August 2019

12th August 2019

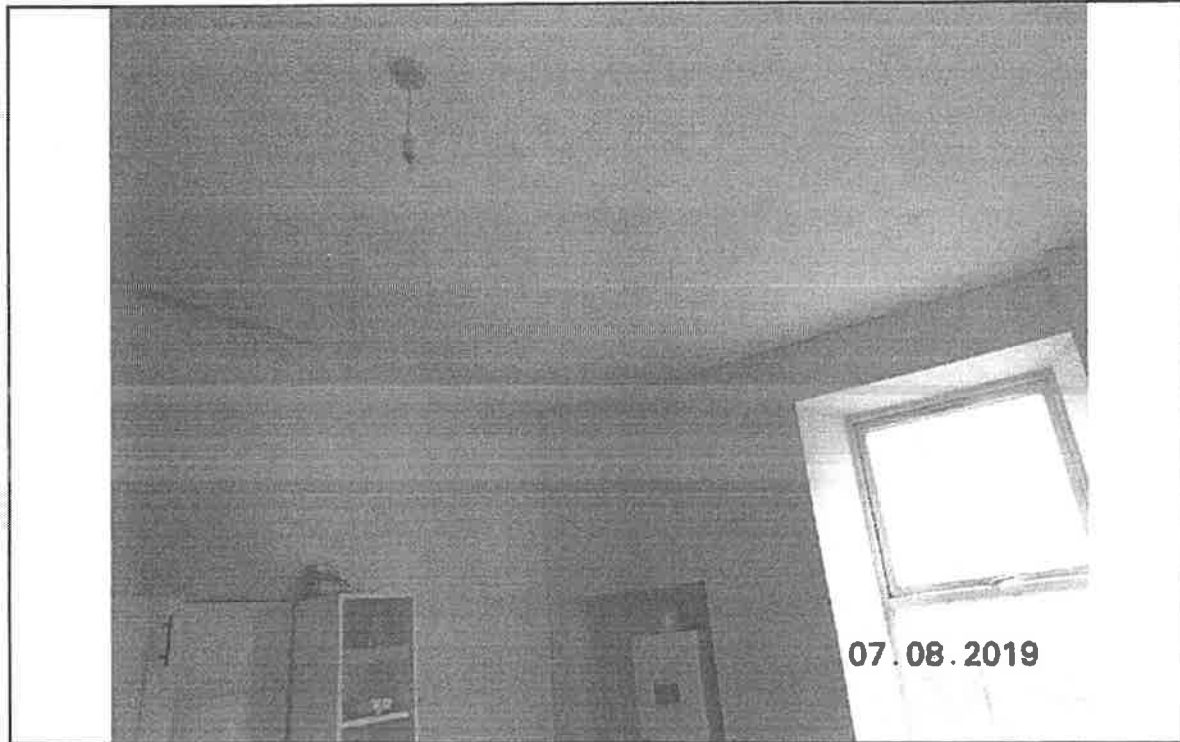
This page and the following
six pages are the
Schedule of Photographs
attached to the Statement of
Decision dated 12th August
2019



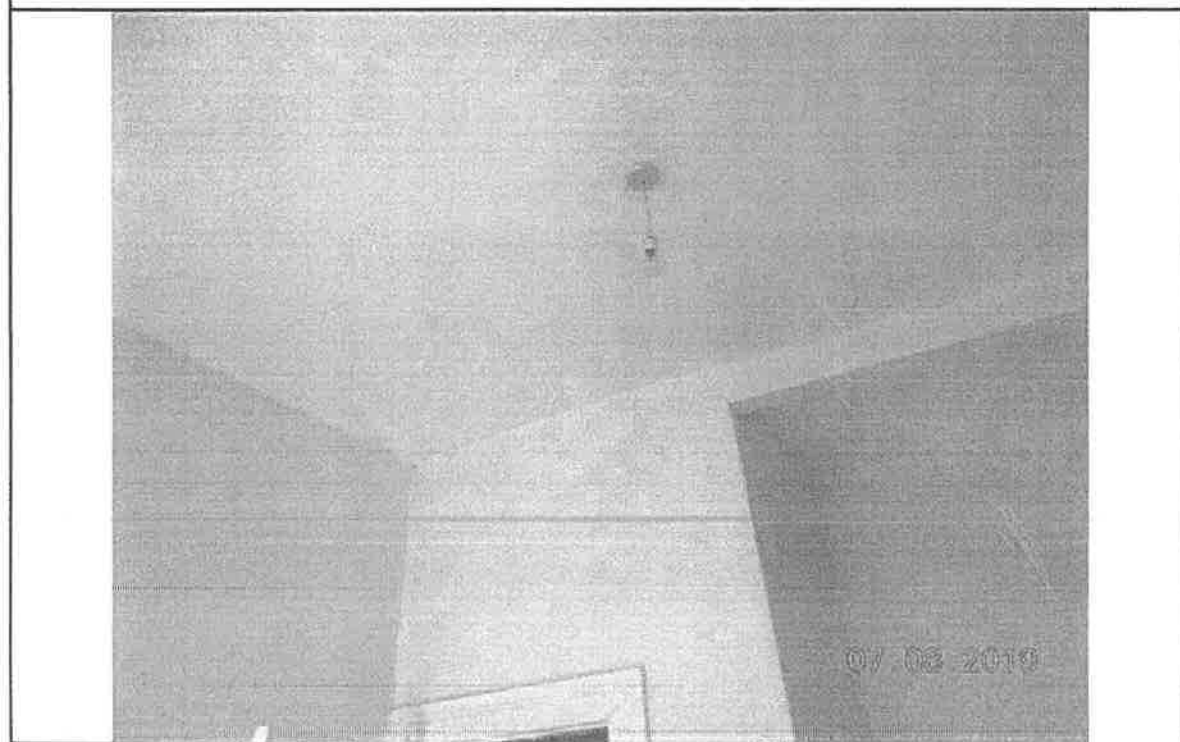
1. Ceiling in Hall



2. Ceiling in Hall



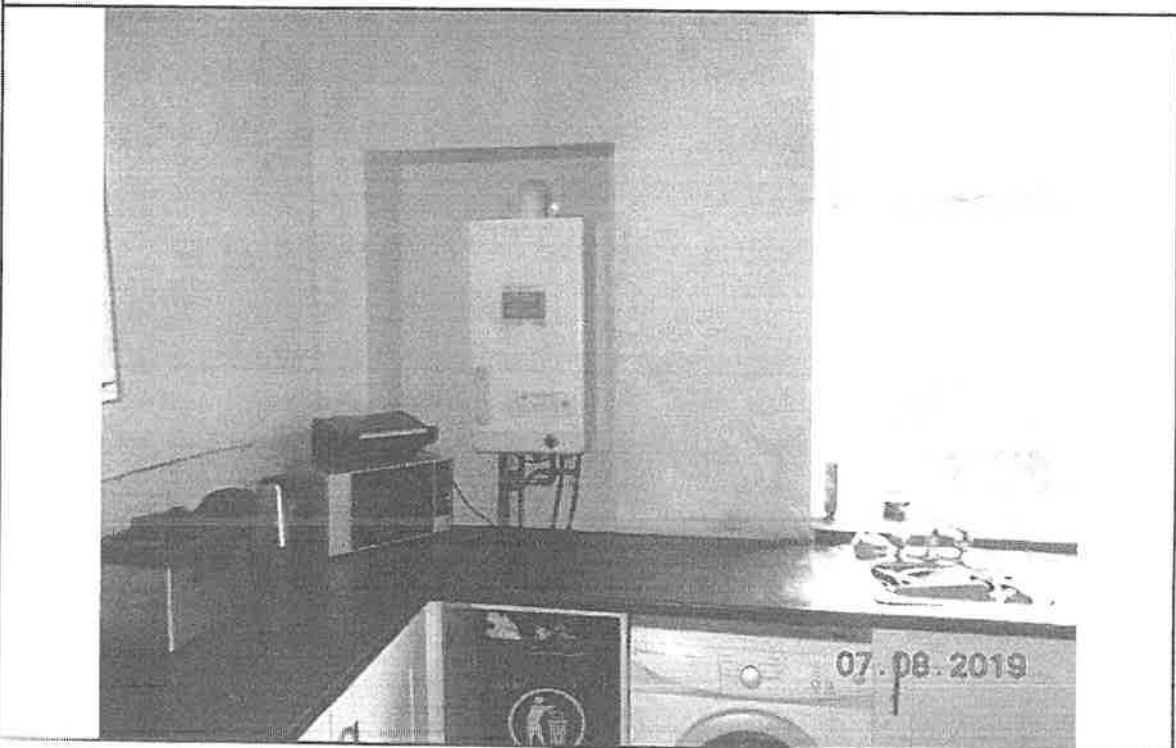
3. Ceiling in Kitchen



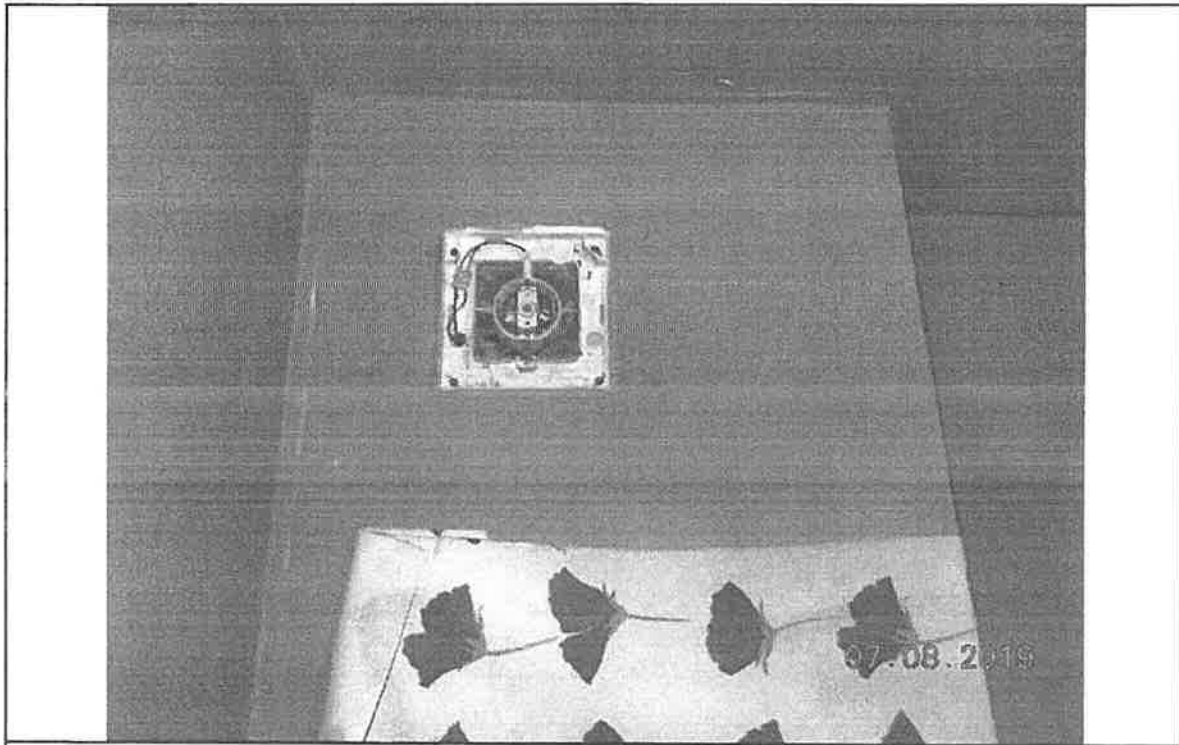
4. Ceiling in Kitchen



5. Ceiling in Kitchen



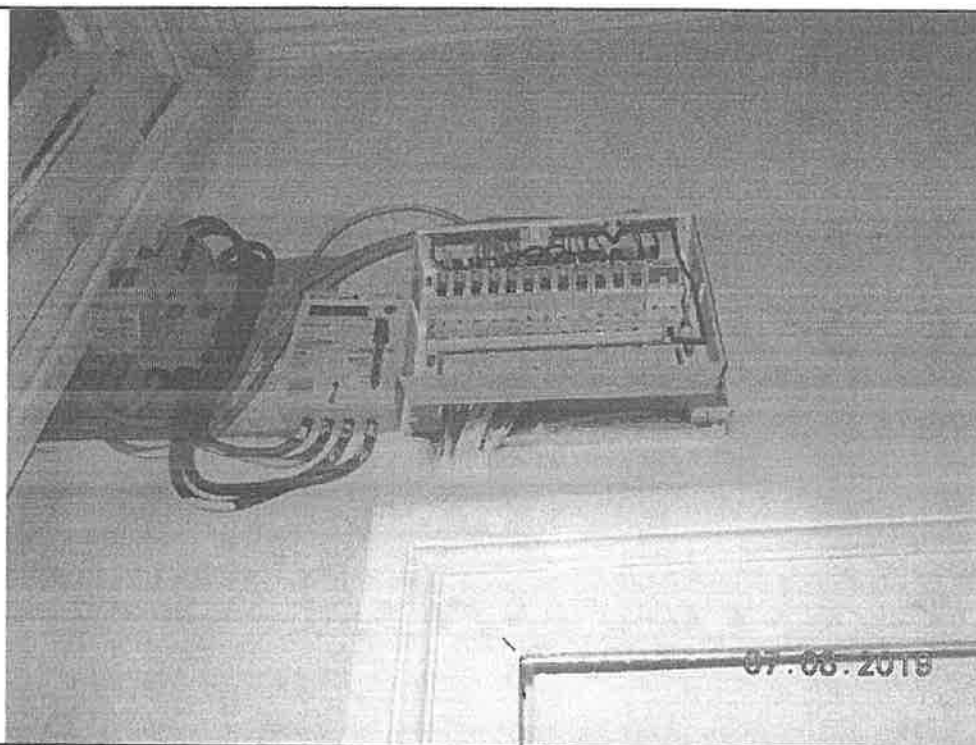
6. Boiler in Kitchen



7. Extract fan in Shower Room



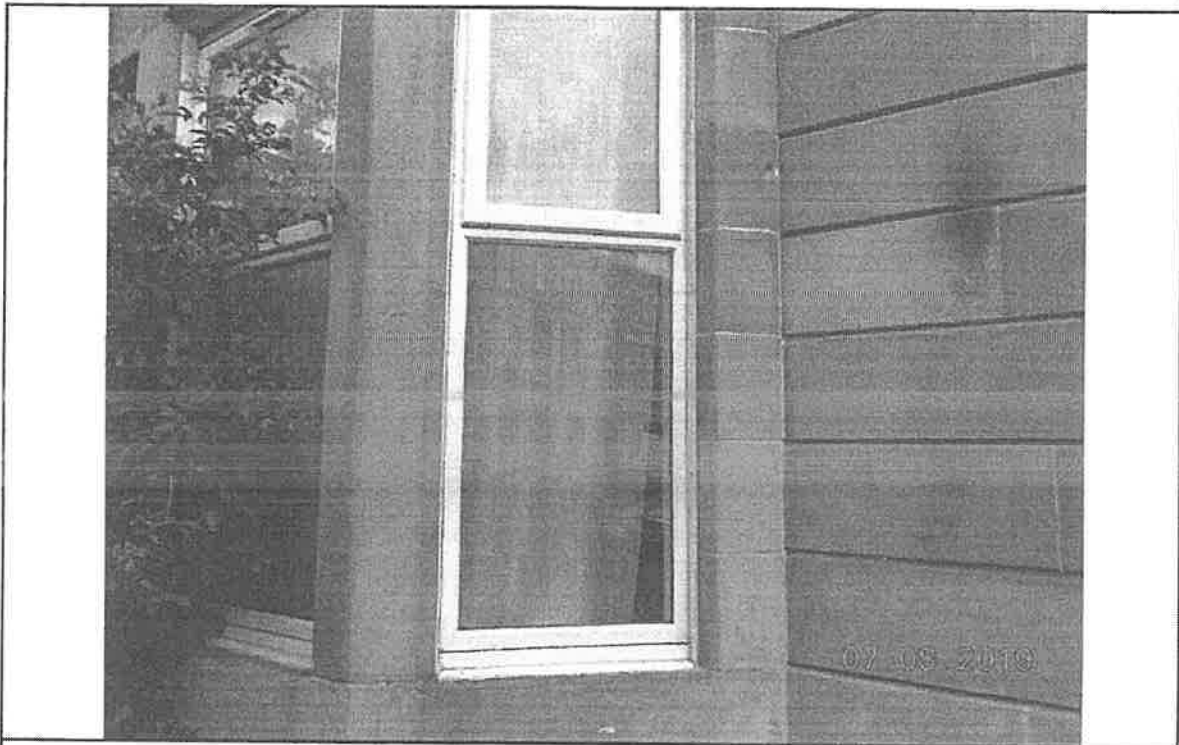
8. WC Cistern



9. Consumer Control Unit



10. Cracked glass from inside



11. Window with cracked glass from outside



12. General view of property