



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref:prhp/rp/15/106

In respect of an application lodged in terms of Section 22(1) of the Housing (Scotland) Act 2006 by Mrs Wendy Ross residing at 6 Stirling Street, Coatbridge, ML5 5QP ("the Tenant") against Gholamali Moghaddas Ghahfarokhi (otherwise Gholahi Ghahfarokhi) residing at 13 Tinto Grove, Bargeddie, Glasgow ("the Landlord")

Re : Property at 6 Stirling Street, Coatbridge, ML5 5QP being the subjects registered in the Land Register for Scotland under Title Number LAN108922

Committee Members

Karen Moore (Chairperson)

Kingsley Bruce (Surveyor Member)

Scott Campbell (Housing Member)

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property, determined that the Landlord has not complied with the duty imposed by Section 14 (1) (b) of the Act in respect that the Property fails to meet the Repairing Standard in respect of Sections 13 (1) of the Act and that for the reasons set out below.

NOTICE TO THE LANDLORD

Gholamali Moghaddas Ghahfarokh (otherwise Gholami Ghahfarokh) residing at 13 Tinto Grove, Bargeddie, Glasgow

Whereas in terms of their decision dated 22 July 2015, the Private Rented Housing Committee determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the Landlord had failed to ensure that the Property is wind and watertight and in all other respects reasonably fit for human habitation and that 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, the Private Rented Housing Committee now requires the Landlord to carry out the following works (or other such works as are necessary for the purposes of ensuring that the Property meets the Repairing Standard and that any damage caused by carrying out of the works in terms of the Order is made good.

The Landlord must no later than 28 August 2015:-

1. Repair the gas fire in the living room in order that it is in a reasonable state of repair or remove the gas fire from the Property;
2. Repair or replace the extractor fan in the bathroom to ensure that the shower area is properly ventilated and
3. Remove the mould from the ceiling in the shower area.

A Landlord or a Tenant aggrieved by the decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within twenty one days of being notified of that decision.

Where such an Appeal is made, the effect of the decision and of the Order is suspended until the appeal is abandoned or finally determined, and 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.

In Witness Whereof these presents printed on this and the preceding page are subscribed by Karen Moore, Chairperson, at Glasgow on 22 July 2015 before this witness, Norman William Moore, Solicitor, Cumbernauld

K Moore

N Moore *Witness*



Determination by Private Rented Housing Committee

Statement of Decision of the Private Rented Housing Committee issued under Section 24(1) of the Housing (Scotland) Act 2006

prhp Ref:prhp/rp/15/106

In respect of an application lodged in terms of Section 22(1) of the Housing (Scotland) Act 2006 by Mrs Wendy Ross residing at 6 Stirling Street, Coatbridge, ML5 5QP ("the Tenant") against Gholamali Moghaddas Ghahfarokhi (otherwise Gholahi Ghahfarokhi) residing at 13 Tinto Grove, Bargeddie, Glasgow ("the Landlord")

Re : Property at 6 Stirling Street, Coatbridge, ML5 5QP

Committee Members

Karen Moore (Chairperson)

Kingsley Bruce (Surveyor Member)

Scott Campbell (Housing Member)

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property, determined that the Landlord has not complied with the duty imposed by Section 14 (1) (b) of the Act in respect that the Property does not meet the Repairing Standard in respect of Sections 13 (1) of the Act and that for the reasons set out below.

Background

1. By application received by the Private Rented Housing Panel on 12 March 2015 and (“the Application”), the Tenant applied to the Private Rented Housing Panel for a determination that the Landlord had failed to comply with the duty imposed on him by Section 14 (1) (b) of the housing (Scotland) Act 2006 in respect that the Property does not meet the Repairing Standard in respect of Sections 13 (1) (a), 13 (1) (c) and 13 (1) (f) of the Act.
2. The President of the Private Rented Housing Panel, having considered the application, intimated to the parties by Notice of Referral dated 21 April 2015 a decision under Section 23 (1) of the Act to refer the Application to a Private Rented Housing Committee and in terms of Schedule 2, Paragraph 1 of the Act fixed an Inspection and Hearing for 8 July 2015 at 10.00 a.m. and 11.30 a.m., respectively.
3. In the Application, it was stated that the Tenant considered that the Landlord had failed to ensure that the Property met the Repairing Standard as set out in 13 (1) (a), 13 (1) (c) and 13 (1) (f) of the Act by failing to ensure the house is wind and water tight and in all other respects reasonably fit for human habitation, 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 and the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
4. In particular, the Tenant, in the Application, stated that:-
 - i) There has been no heating or hot water in the Property from 28 November – 23 December 2014 and 10 January – 3 February 2015;
 - ii) The radiator in the bathroom has not worked for 7 years;
 - iii) The bathroom ceiling is covered in black mould;
 - iv) The living room gas fire does not work;
 - v) There are no adequate fire /smoke alarms;
 - vi) There is no heat detector in the kitchen;
 - vii) The radiator in the kitchen is leaking;
 - viii) The boiler leaks and the boiler pressure falls;
 - ix) The bath requires to be sealed;
 - x) There is dampness in the hallway

5. By letter dated 21 April 2015 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
6. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.
7. Following service of the Notice of Referral, the Tenant by letter dated 30 April 2015 made written representations to the Committee stating that:-
 - i) With regard to the lack of heating in 28 November – 23 December 2014 and 10 January – 3 February 2015, the Landlord's first response was on 16 January 2015 and that heating and hot water are now restored;
 - ii) With regard to the bathroom ceiling, no work has been carried out and that the Landlord stated to the Tenant the mould is caused by the Tenants' own shower. The Tenant disputed this and maintained that the shower had been in place before the tenancy commenced.;
 - iii) With regard to the gas fire, the gas supply was shut off in January 2015 and
 - iv) With regard to the smoke and heat detectors there should be two smoke detectors, a heat detector and a carbon monoxide detector.

The Tenant submitted photographs showing mould on the bathroom ceiling.

8. The Landlord by letter dated 5 May 2015 made written representations to the Committee stating that :-
 - i) Following contact from North Lanarkshire Council, he had agreed to repair the bathroom radiator and install the smoke detectors, heat detector and a carbon monoxide detector;
 - ii) The mould in the bathroom is as a result of condensation caused by the Tenant installing a shower in the bathroom cupboard without permission;
 - iii) The living room gas fire is decorative only and the Property has gas central heating;
 - iv) The bathroom radiator was fixed on 10 February 2015;

- v) An electrician instructed to install the smoke detectors, heat detector and a carbon monoxide detector in March was refused access by the Tenant;
- vi) The bathroom had been inspected by a plumber for leaks and burst pipes and none was found, the plumber forming the view that any dampness could have been caused by flooding.

The Landlord submitted :-

- i) copy correspondence between himself and North Lanarkshire Council supporting his written representations;
- ii) copy correspondence between himself and the Tenant regarding rental payments;
- iii) copy Gas Safety Record dated 17 January 2015 marked as satisfactory;
- iv) copy correspondence between himself and his electrician regarding access to the Property.

The Landlord made further statements in respect of the Tenant's lifestyle and eviction proceedings which are outwith the jurisdiction of the Committee.

9. The Landlord by letter dated 28 May 2015 submitted the following receipted invoices to the Committee:-

- i) Invoice dated 23 May 2015 from Newhouse Home and Gardens for plumbing works and renewal of bathroom ceiling;
- ii) Invoice dated 11 May 2015 from DM Electrical & Property Maintenance for installation of smoke detectors, heat detector and a carbon monoxide detector and boiler repair
- iii) Certificate dated 11 May 2015 from DM Electrical & Property Maintenance for installation of smoke detectors and heat detector.

10. The Tenant by letter dated 18 June 2015 and received by the Private Rented Housing Panel on 7 July 2015 made further written representations comprising 11 pages to the Committee. The Committee took the view that the further written representations had been received late and so declined to accept them into the proceedings.

Inspection and Hearing

11. An Inspection took place on 8 July 2015 at 10.00 a.m. at the Property. Access to the Property was arranged by the Tenant who was not present at the Inspection. The Landlord was present at the Inspection.

12. The Committee inspected the items of which the Tenants complained specifically in the Application, namely, the boiler, the domestic hot water system, the radiators in the bathroom and the kitchen, the bathroom ceiling, the sealant at the bath, the living room gas fire, the provision of smoke alarms and a heat detector and the dampness in the hallway
13. Following the Inspection, a Hearing was held at the Europa Building, 450 Argyle Street, Glasgow G2 8LH on 8 July 2015 at 11.30 a.m. The Tenant was not present. The Landlord was present.
14. At the Hearing The Landlord submitted to the Committee that, in his opinion, the matters complained of by the Tenant had arisen as a result of other proceedings raised by him but that he had undertaken the repair works and had submitted receipts evidencing this to the Committee.
15. With regard to the gas fire, the Landlord advised the Committee that he accepted that this fire was not in working order, having been disconnected in January 2105, and explained that the Tenant had agreed to the disconnection.
16. the Landlord advised the Committee that, with regard to the shower, the shower, although the pipework had been in place at the start of the tenancy, the Tenant had installed the shower, the shower tray and rail without his permission and without statutory consents and that he had disconnected the water supply to the shower.

Summary of the Issues

17. The issues to be determined by the Committee are whether or not the Property meets the Repairing Standard in respect of Section 13 (1) (a), 13 (1) (c) and 13 (1) (f) of the Act at the date of the Inspection and Hearing. In particular the Property is wind and water tight and in all other respects reasonably fit for human habitation, 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 and the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

Findings of Fact

18. The Landlord, Gholamali Moghaddas Ghahfarokhi (otherwise Gholahi Ghahfaroki) is the owner of the Property under title number LAN108922 and the Tenant, Mrs Wendy Ross, is the tenant of the Property in terms of a tenancy agreement between the parties dated 1 April 2013.
19. The Property is a former local authority upper floor cottage flat situated on the end terrace of a row of houses and flats and comprises three bedrooms, one public room, kitchen and bathroom. The Property appears to be of traditional construction, estimated to be in the region of around 60/70 years old or thereby, with external walls of masonry construction, plastered internally and with external roughcast finish. The roof is pitched and finished with slates/tiles. A photograph of the Property is numbered 4 on the Schedule aftermentioned.
20. The Committee inspected the living room, kitchen, bathroom, hall and one of three bedrooms, the other bedrooms not being the subject of the Application and, in any event, one of the other bedrooms being in use. The Committee took digital photographs at the Inspection which photographs form the Schedule annexed and executed as relative hereto.
21. From the Inspection, the Committee found the following:
- i) The radiator in the bathroom appears to be in working order and there is no evidence of any leaks (photograph 7 of the Schedule) ;
 - ii) The bathroom ceiling appears to have been renewed in part and there is no mould on the new ceiling(photograph 8 of the Schedule);
 - iii) A shower has been installed in what appears to be a former cupboard which forms part of the bathroom. The ceiling in the shower area has not been renewed and is marked by mould. There is no operable extractor fan in the shower area (photographs 5,6,10,11 and 13 of the Schedule);
 - i) The living room gas fire appeared to have been disconnected;
 - ii) There are hard wired smoke fire detectors in the living room, hall and in the only bedroom which the Committee inspected (photographs 4 and 12 of the Schedule);
 - iii) There is a heat detector in the kitchen ;

- iv) The radiator in the kitchen appears to be in working order and, although a small plastic tray had been placed under the radiator, there is no evidence of any leaks (photograph 1 of the Schedule);
- v) The boiler appears to be in working order and there is no evidence of any leaks (photograph 9 of the Schedule);
- vi) The bath appears to be properly sealed
- vii) There are slight dampness marks in the hallway which appear to be of an age and to have been caused by a leak from the boiler (photograph 3 of the Schedule).

22. From the Tenant's written representations, the Committee found that the Tenant accepted that the heating defects complained of in the Application had been remedied, that the smoke detectors, heat detector and a carbon monoxide detector had been installed and that living room gas fire had been disconnected. With regard to the last point, the Tenant did not indicate agreement to the gas fire being disconnected.

23. From the Landlord's written representations, the Committee found that the Landlord had remedied the matters complained of in the Application with the exception of the gas fire in the living room and the mould on that part of the bathroom ceiling which is in the shower area.

24. With regard to the living room gas fire, the Committee could not be certain that the Tenant had agreed to this being disconnected, however, the Landlord's obligation in respect of the Repairing Standard as specified in Section 13 1 (c) is that installations in the house for space heating must be in a reasonable state of repair and in proper working order and so it is the Committee's view that it is irrelevant whether or not the Tenant agreed to the fire being disconnected.

25. With regard to the shower room, in the professional opinion of the Committee, it appeared that, on the balance of probabilities, the shower and at least some of its fittings had been in place prior to the tenancy commencing. The Committee found that the Landlord is aware and has been aware for some time that the shower is installed. The Landlord's obligation in respect of the Repairing Standard as specified in Section 13 1 (c) is that 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, and so it is the Committee's view that it is irrelevant whether or not the Tenant installed the shower.

Decision of the Committee

26. The Committee's decision was based on the Application with supporting documents, the written representations of both parties, the Inspection and on the statements made to the Committee by the Landlord at the Hearing.
27. In respect of Section 13 (1) (f), of the Act, the Committee found that at the date of the Hearing the Landlord has not failed to comply with the duty imposed by Section 14 (1) (b) of the Act, the reason being that the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
28. In respect of Section 13 (1) (a) of the Act, the Committee found that at the date of the Hearing the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act as the shower area in the bathroom is not properly ventilated and so the Property is not wind and water tight and in all other respects reasonably fit for human habitation.
29. In respect of Section 13 (1) (c) of the Act, the Committee found that at the date of the Hearing the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act as the living room gas fire has been disconnected and so is not in a reasonable state of repair and in proper working order.
30. The decision is unanimous.
31. The Committee, having determined that the Landlord had failed to comply with the duties imposed by Section 14(1) (b) of the Act proceeded to make a Repairing Standard Enforcement Order as required by Section 24(2) of The Act.

Right of Appeal

32. A landlord or tenant aggrieved by the decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.
33. Where such an appeal is made, the effect of the decision and of any repairing standards enforcement order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the

decision and any repairing standards enforcement order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed

K Moore

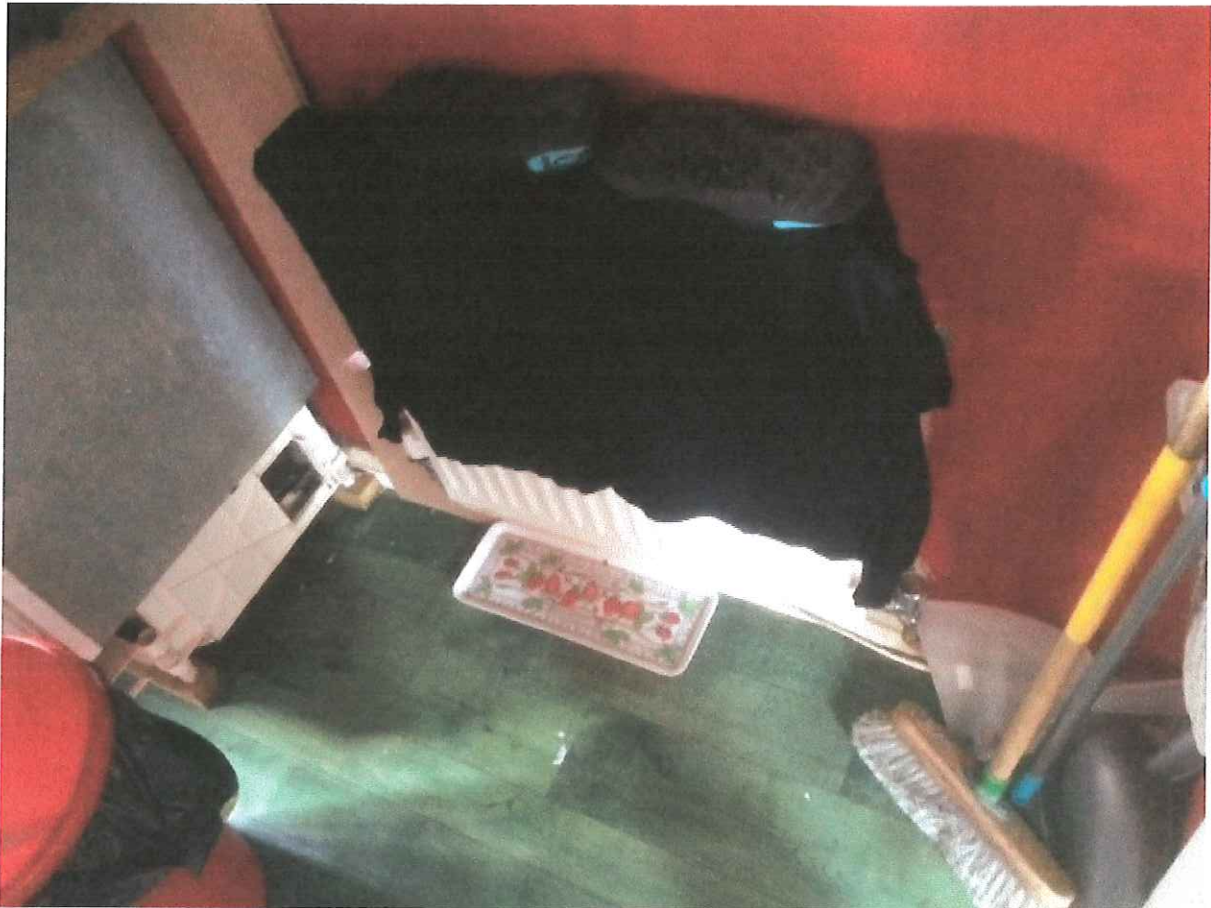
Karen Moore, Chairperson

Date 22 July 2015

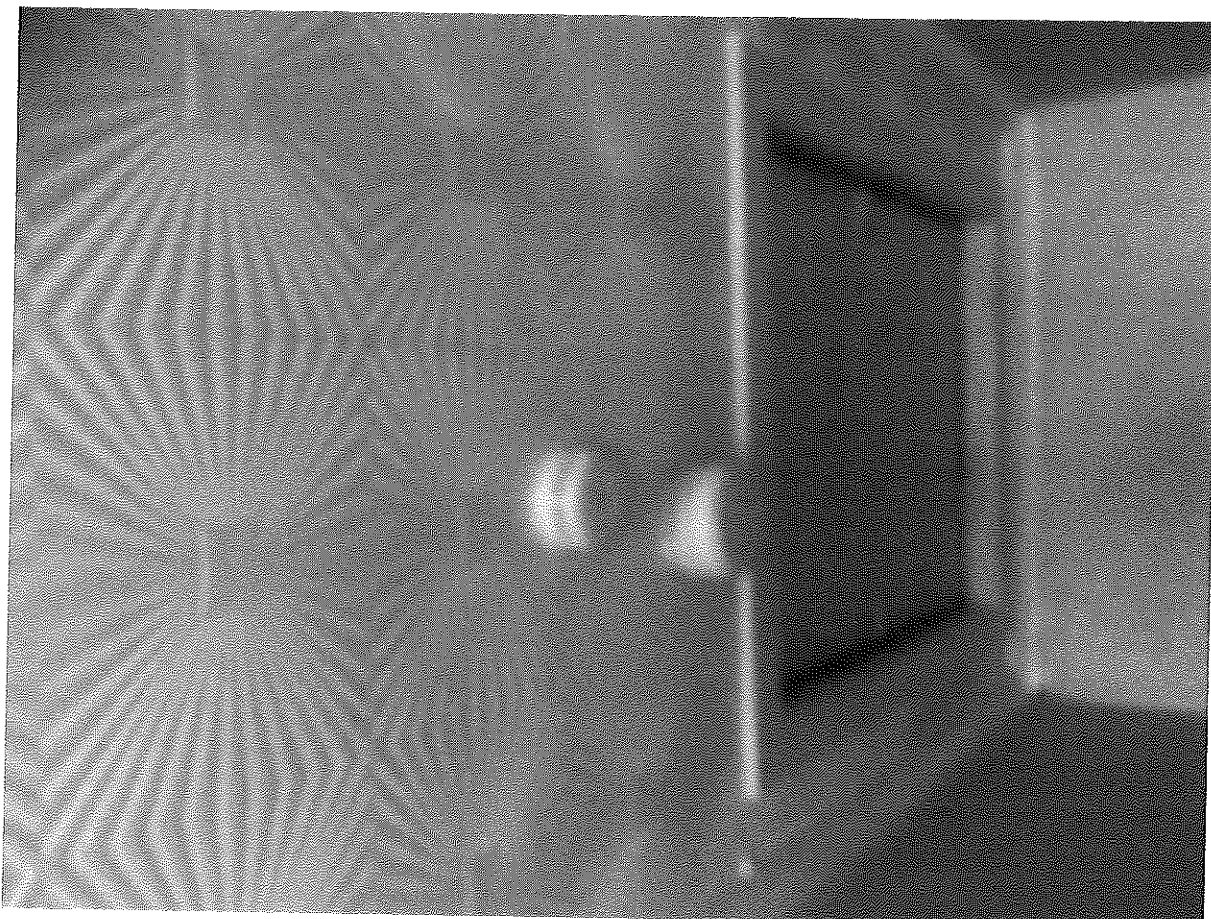


This is the Schedule referred to in the foregoing Determination by the Private Rented Housing Committee dated 22 July 2015 in respect of Property at 6 Stirling Street, Coatbridge, ML5 5QP under reference :prhp/rp/15/106

Kate Moore



1. The radiator in the kitchen appears to be in working order and, although a small plastic tray had been placed under the radiator, there is no evidence of any leaks



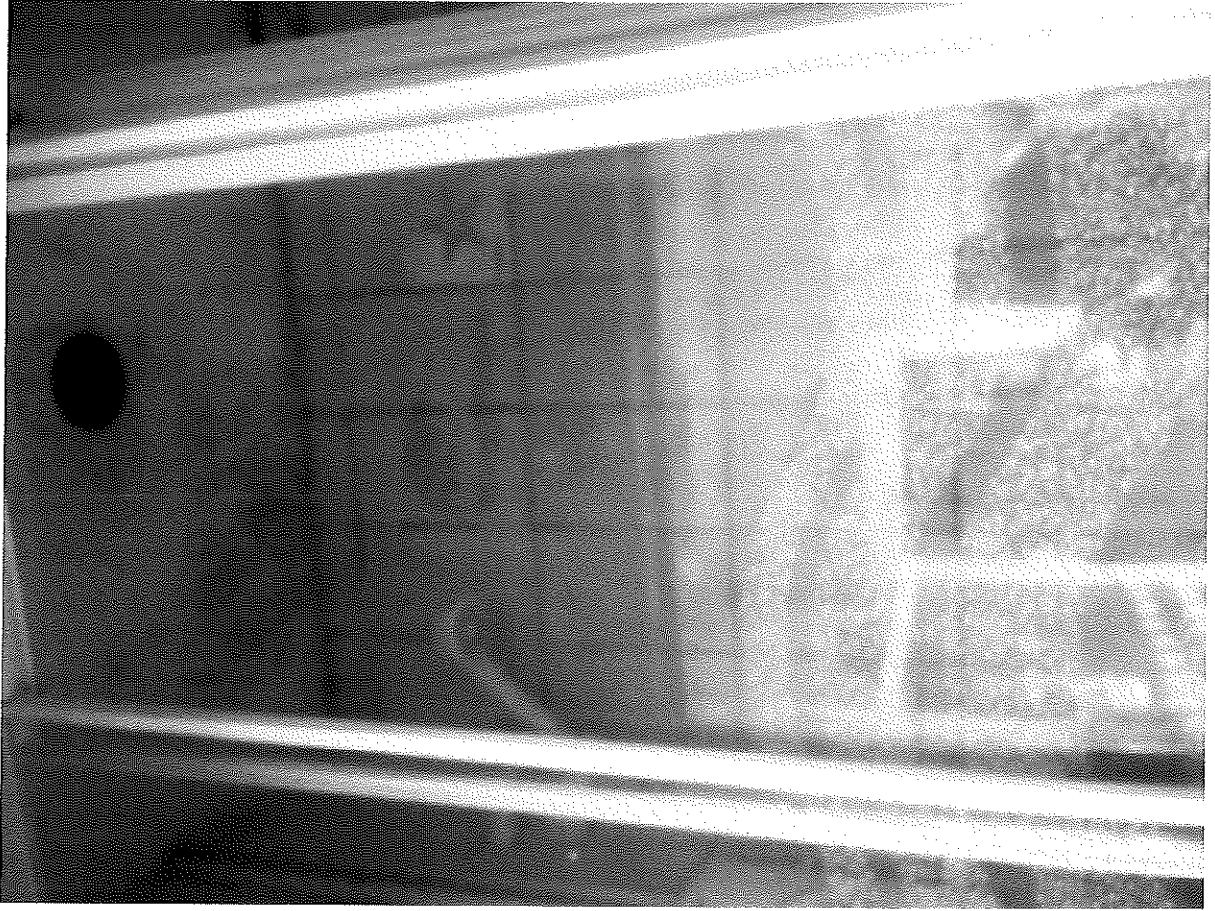
2. There are hard wired smoke fire detectors in the living room, hall and in the only bedroom which the Committee inspected



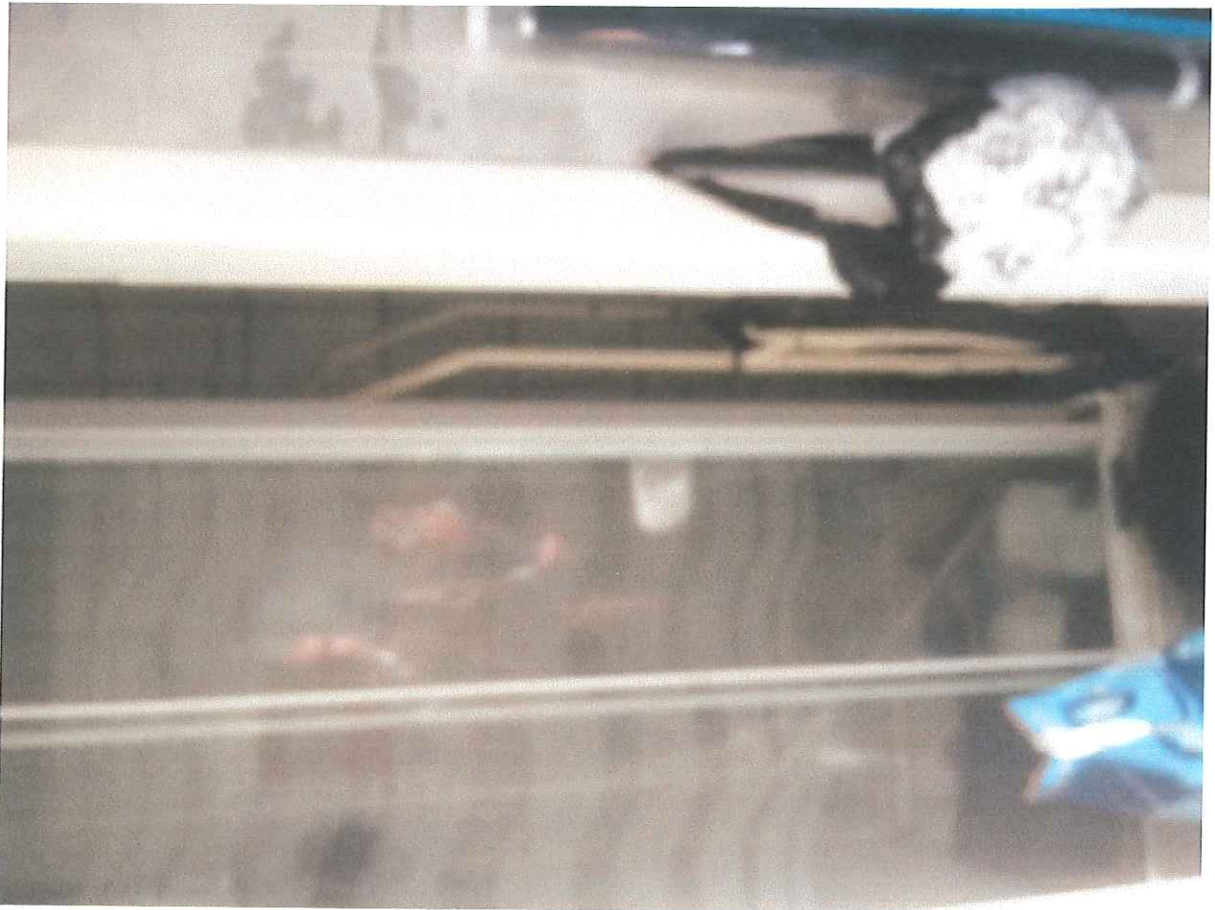
3. There are slight dampness marks in the hallway which appear to be of an age and to have been caused by a leak from the boiler



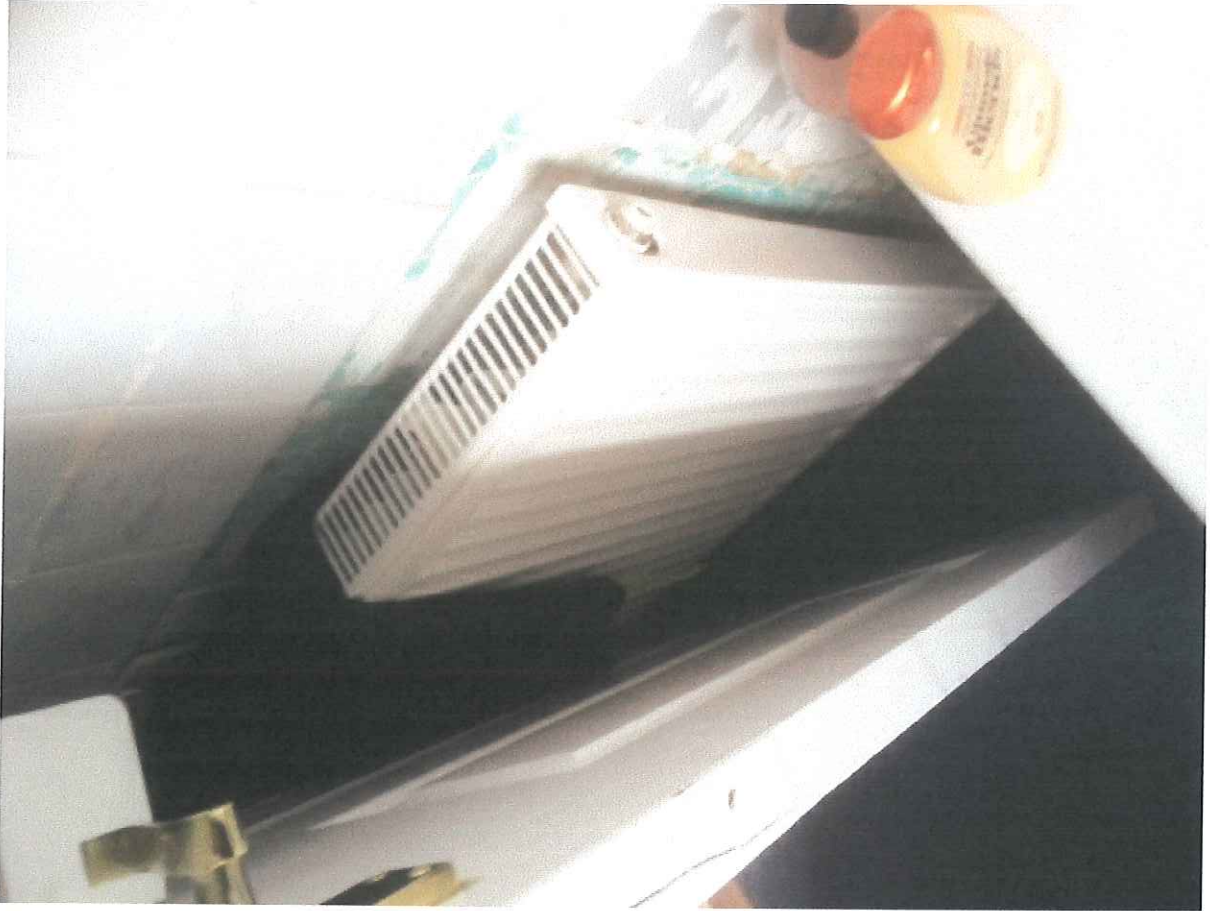
4. The Property



5. A shower has been installed in what appears to be a former cupboard which forms part of the bathroom



6. A shower has been installed in what appears to be a former cupboard which forms part of the bathroom



7. The radiator in the bathroom appears to be in working order and there is no evidence of any leaks



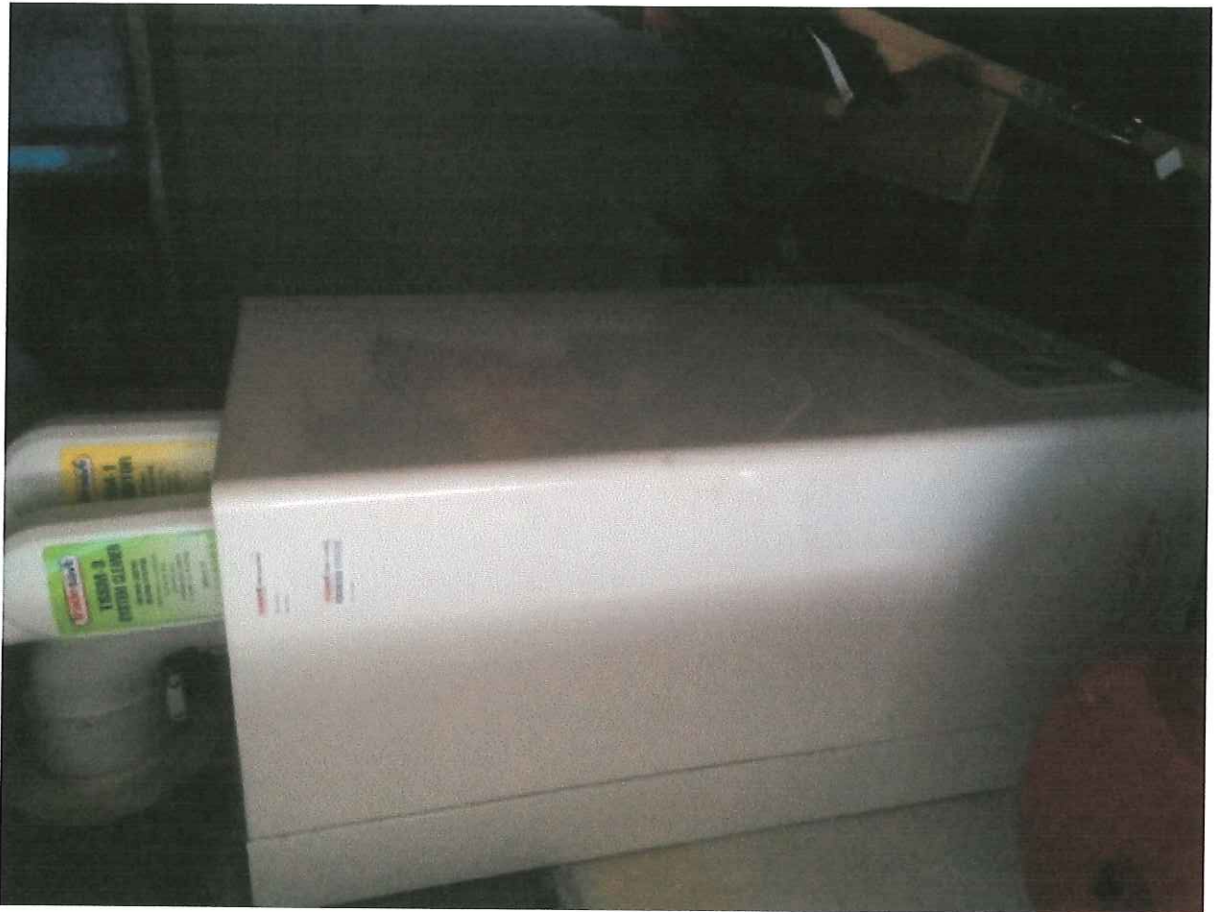
8. The bathroom ceiling appears to have been renewed in part and there is no mould on the new ceiling



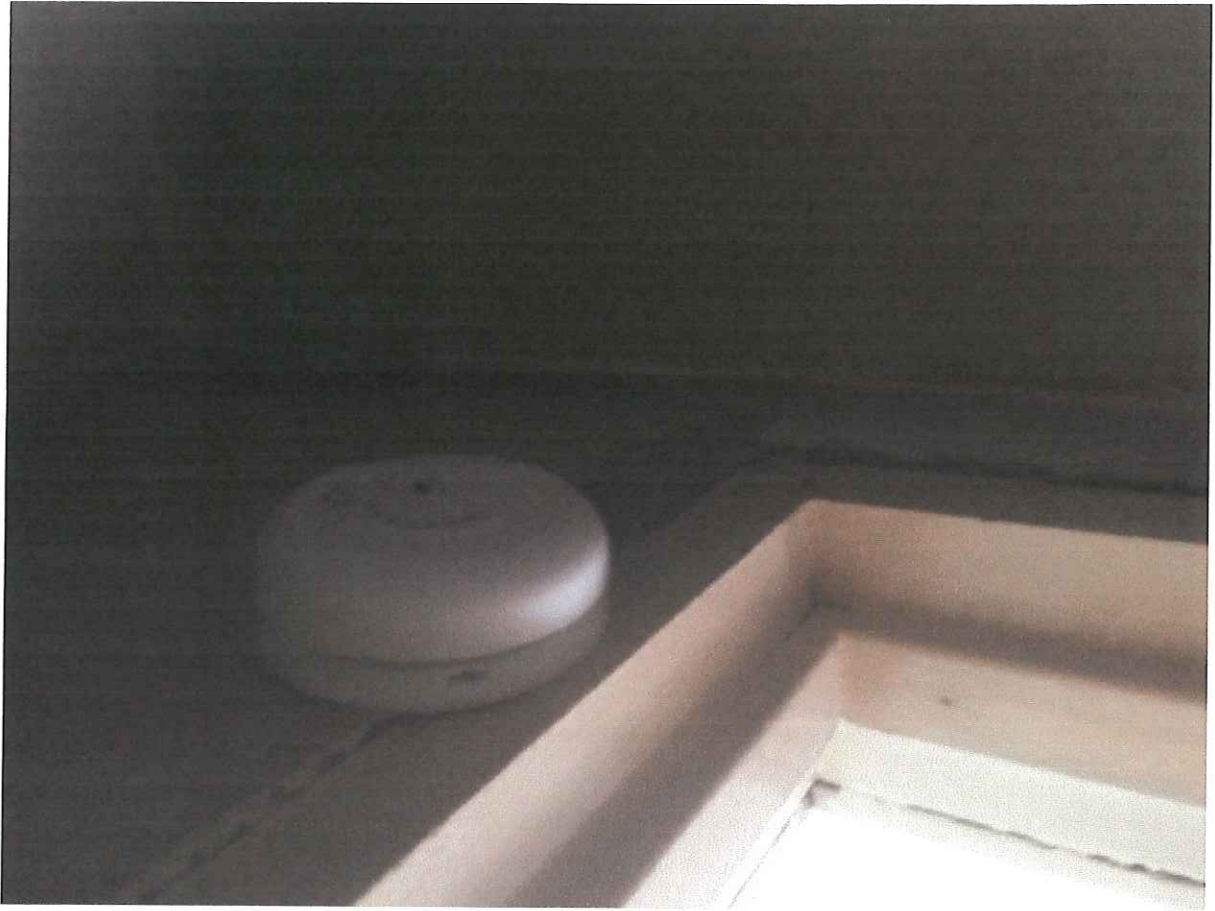
9. The boiler appears to be in working order and there is no evidence of any leaks



10. A shower has been installed in what appears to be a former cupboard which forms part of the bathroom



11. A shower has been installed in what appears to be a former cupboard which forms part of the bathroom



12. There are hard wired smoke fire detectors in the living room, hall and in the only bedroom which the Committee inspected



13. There is no operable extractor fan in the shower area