



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr An-Heng Yang

**Respondent:** Linga International Limited

**Heard at:** London South, by CVP

**On:** 20 November 2025

**Before:** EJ Rice-Birchall

## **Representation**

Claimant: Mr Neaman, counsel

Respondent: Mr O'Callaghan, counsel

# JUDGMENT

The respondent's application dated 10 March 2025 for reconsideration of the judgment sent to the parties on 24 February 2025 is refused.

# REASONS

## **Background and issues**

1. By a claim form dated 8 February 2024, the claimant brought a claim against the respondent which included a claim of constructive unfair dismissal. The respondent did not file a response to the claim.
2. At a hearing on 5 February 2025, which was not attended by the respondent or a representative for the respondent, Employment Judge Rice-Birchall upheld all of the claimant's claims. Judgment was sent to the parties on 24 February 2025. Written reasons were sent to the parties on 15 May 2025.
3. By application dated 10 March 2025, the respondent sought reconsideration of the Judgment.
4. The application is broadly advanced on two bases. First, the respondent was not aware of the Employment Tribunal proceedings until Mr Lingajothy, the respondent's sole director and shareholder, was sent a copy of the Judgment on 25 February 2025 by a former colleague. He says he had received no

communication from the claimant or the Tribunal before that and was unaware of the claimant's claim. Second, in any event the respondent has a full defence to the claim in that the claimant was at no point employed by the respondent, and in any event his employment could not have continued after the commencement of his training contract in 2022.

5. The parties were informed that a hearing would take place to decide whether or not the Judgment would be reconsidered and told that "Employment Judge Rice-Birchall's provisional view is that the application to reconsider the judgment should be granted if the Tribunal is satisfied that, as the respondent alleges, it did not have the opportunity to present a defence to the claim or to have its defence considered at the final hearing, as it would be in the interests of justice to allow it to do so."
6. The hearing was listed for three hours. Although the evidence was heard, there was no time for submissions and so both parties sent in written submissions for consideration by the Tribunal.

### **Issues**

7. The issue before the Tribunal was whether or not the judgment should be reconsidered. The question for the Tribunal is whether the respondent was unaware of proceedings because of a "culpable default" on its part, or because of "a genuine misunderstanding or an accidental or understandable oversight".
8. There are two stages:
  - a. Were there any steps which, if they had been taken, would have resulted in the proceedings coming to the respondent's attention prior to the date of the final hearing.
  - b. If so, was it reasonable to expect the respondent to take one or more of those steps?

### **Evidence**

9. The Tribunal received a written statement from Mr Lingajothy and heard oral evidence from him. There were two bundles of documents, one prepared by the claimant and one by the respondent.
10. The claimant produced witness statements from a Ms Man and Ms Neng, but they did not attend the hearing and their evidence was untested in cross-examination. For that reason alone it carries little weight. In any event, their evidence was not relevant to the matters in issue, going only to show that they believed they were not employees of the respondent. This has no bearing on whether the respondent was unaware of proceedings due to a 'culpable default' on its part.
11. The Tribunal found that Mr Lingajothy's evidence lacked credibility for the a number of reasons.
12. First, Mr Lingajothy stated that the respondent "was no longer trading and ceased to be active since July 2023" but on Companies House the respondent was still recorded as active on 17 November 2025, and a confirmation statement had been submitted on 1 May 2024.
13. Second, Mr Lingajothy engaged in "unfounded speculation", in which he confidently made assertions he was unable to substantiate, including claiming that he knew from his experience in practice that in over 50% of the cases in which ACAS EC Certificates are issued, no claim is issued. But when pressed he

admitted that he had never practiced in employment law, had no experience engaging with ACAS or the EC process, and had no source for the 'statistic' he had so confidently asserted was true.

14. He also asserted that, as a matter of the SRA's rules, a trainee could not be employed by anyone other than their registered training provider. He claimed that the SRA's own advice, sent to the claimant by email on 23 October 2023, was therefore incorrect, and yet was repeatedly unable to cite any rule or regulation in support of his position.
15. Third, Mr Lingajothy's evidence was exaggerated in places, especially as regards the difficulties he faced in attending to the respondent's affairs. For example, Mr Lingajothy states at that he "made myself very scarce" at the Colliers Wood office and "very seldom visited there". But in oral evidence it emerged that Mr Lingajothy visited Colliers Wood office at least once a week (albeit outside normal office hours), and was even able to use the IT equipment there on at least two occasions.
16. Fourth, Mr Lingajothy gave evidence that was prima facie highly implausible. For example, he asserted that the letters that were signed for at the Colliers Wood office under the name 'Linga' had not been signed for by him but by a person unknown, as to whose identity, Mr Lingajothy could give no plausible suggestion. It is highly unlikely that anyone would have signed for post using Mr Lingajothy's name, not least given the admittedly poor relationship between Mr Lingajothy and the new occupants of the office, MDL, and its managing director.
17. Fifth, Mr Lingajothy did not properly review his first statement before signing the statement of truth. During the enforcement proceedings, Mr Lingajothy disclosed copies of the ACAS correspondence accompanied by a handwritten note saying the emails had not been received on time. This was in error. Mr Lingajothy accepted later the emails were properly received. But the error was not picked up until Mr Lingajothy's second witness statement. When Mr Lingajothy was asked whether he had received the documents and double-checked the position before signing his first statement, he repeatedly refused to answer the question. The obvious inference is that the statement was not properly reviewed.
18. Sixth, Mr Lingajothy was evasive as a witness. He refused to answer even simple questions. He often chose to answer the question he wished had been asked rather than that which was actually put to him. When pressed on difficult points, he was belligerent, he raised his voice, waggled his finger, and began asking his own questions or querying where the line of cross-examination was leading. This was exemplified when Mr Lingajothy was confronted by his inability to substantiate his claims about the SRA rules. This prompted a lengthy tirade against the author of the email of 23 October 2023 and their lack of qualifications.
19. Finally, Mr Lingajothy refused to accept his own mistakes. When confronted with the inaccuracies in his own evidence, Mr Lingajothy refused to accept his errors, choosing instead to double down and defend the indefensible. When confronted with the fact that the 20 November 2023 email had not in fact been sent to his spam folder, Mr Lingajothy claimed he was a technophobe who did not understand the distinction between a spam folder and an inbox.
20. These findings call into question the reliability of Mr Lingajothy's evidence regarding the events in question.

### **Findings of fact relevant to the issues**

21. Documents may validly be served at a company's registered office, or at a last known place of business. Valid service does not depend on showing that the

documents were actually read by an officer of the company.

22. Further and in any event, under Rule 88 of the 2024 Rules, a document posted in accordance with Rules 83 to 87 is taken to have been received by the addressee on the day on which it would be received in the ordinary course of post, unless the contrary is proved.
23. In this case, documents were sent to the respondent by the Tribunal at its registered office address on: 13 May 2024, 3 October 2024, 15 October 2024 and 10 January 2025 [CB/60-62]. The respondent was also sent the Notice of Claim and Response Pack shortly after the ET1 was presented.
24. All the above correspondence was correctly addressed to the respondent's registered office at 46 High Street Colliers Wood London SW19 2BY (i.e., the Colliers Wood office). There is no evidence that any of the above letters were returned to sender.
25. The Tribunal finds that on the balance of probabilities they did arrive at the respondent's registered office. In evidence, Mr Lingajothy did not seek to suggest that the letters did not arrive 'on the doormat' of the Colliers Wood office. There is no evidence to support an alternative conclusion.
26. It is clear that other post sent to that address was received. Two letters in the claimant's bundle were signed for by 'Linga'. The schedule of loss sent by the claimant on 26 March 2024 was received and opened at the Colliers Wood office (albeit that it was then returned to the claimant's solicitors). A letter from HMRC dated 20 March 2024 was received at the Colliers Wood office and actually read by Mr Lingajothy, who confirmed in evidence that he was aware of the letter and the dispute with HMRC.
27. Whilst Mr Lingajothy felt unwelcome attending the Colliers Wood office to collect post during ordinary office hours, he was able to visit the Colliers Wood office without incident either early in the morning or in the evenings. He did so weekly in order to collect post. He was also able to use the office equipment.
28. Mr Lingajothy explained in oral evidence that the difficulty in collecting post stemmed from his poor relationship with Mr Dayal, the new principal of the Colliers Wood office. The relationship between the two men was hostile. Mr Dayal returned any post addressed to Mr Lingajothy, despite knowing that he would be coming to collect it. Mr Lingajothy said Ms Man and Ms Neng were unable to comply with his request to collect his post for this reason. They "had to avoid accepting letters" and would have been made to return any letters received. Thus, not every letter received at the Colliers Wood office would be there when Mr Lingajothy visited.
29. Mr Lingajothy was fully aware from the start that Mr Dayal was returning the respondent's post. He was therefore aware that at least some letters would not be there when he came to collect his post.
30. Mr Lingajothy knew of the claimant's prospective claim against the respondent because ACAS had informed him of the EC notification and of the issuing of the EC certificate, and Mr Lingajothy had engaged with those emails. It is common sense that once an EC certificate is issued, a claim is likely to be made. Mr Lingajothy would have appreciated this at the time, and if not, he ought to have appreciated it. He was therefore on notice that a claim might be sent through the post.
31. The claimant gave Mr Lingajothy the opportunity to have post addressed elsewhere. The claimant had actually asked Mr Lingajothy to advise him of his

preferred contact address. An email of 20 November 2023 states: “If it was not the case that you refuse to engage, please do advise your preferred address where documents regarding the matter can be served in the future”. No response was received.

32. Significantly, on Mr Lingajothy’s own admission, since he became aware of the Judgment, he has taken steps to ensure that all post received at the Colliers Wood office actually reaches him, with the result that only one letter has been missed. There is no suggestion that Mr Lingajothy had any difficulty in implementing the additional steps (he described it as simply increasing his vigilance).
33. Mr Lingajothy said “The reason I have not changed the postal address of Linga International Ltd is because it was only incorporated in 2020 for the purpose of applying for registration with the OISC. However, the OISC did not promptly process the application, they took inordinate time. I was extremely dejected after the OISC refused to register the company since I did not want to keep this ill-fated company alive, I did not want to use a different registration address, and I just kept it as it was until I strike it off.” However, he eventually accepted that the failure to obtain OISC registration or his view of the company as “ill-fated” had no effect on his ability to apply to change the respondent’s registered office and admitted that the reason he had not changed the registered office was instead that he had “lost interest” in the company.
34. Mr Lingajothy referred at various points to health issues he faced. He did not however actually assert squarely that the reason he failed to take the steps above was because of ill health. The Tribunal finds that, in any event, there would be no basis for such a finding. In the relevant period Mr Lingajothy was able to engage with ACAS and HMRC, and to manage the affairs of his other companies. There is no evidence that ill health prevented him from taking what would have been simple administrative steps.

## Law

35. Rule 68 of the 2024 Rules provides:  
68.— Principles
  - (1) The Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so.
36. Rule 68 is the successor to Rule 70 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 (the 2013 Rules), which was materially identical.
37. But the formulation of the test for reconsideration as found in the 2024 and 2013 Rules differs materially from that found in earlier versions of the rules. In the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004 (the 2004 Rules), and earlier iterations of the rules, a reconsideration was referred to as a ‘review’. The test for a review was (as quoted here from Rule 34 of the 2004 Rules) as follows:  
**34.— Review of other judgments and decisions**
  - (3) Subject to paragraph (4), decisions may be reviewed on the following grounds only —
    - (a) the decision was wrongly made as a result of an administrative error;
    - (b) a party did not receive notice of the proceedings leading to the decision;
    - (c) the decision was made in the absence of a party;
    - (d) new evidence has become available since the conclusion of the hearing to which the decision relates, provided that its existence could not have been reasonably

- known of or foreseen at that time; or
- (e) the interests of justice require such a review.
38. The introduction of a single ‘necessary in the interests of justice’ test for reconsideration is merely a matter of simplification. It does not alter the substantive legal principles and the approach set out in the pre-2013 caselaw continues to apply: **Outasight VB Ltd v Brown** (21 November 2014) (EAT) at [30] and [46]-[48].
39. The ‘interests of justice’ test gives the Tribunal “a broad discretion, albeit one that must be exercised judicially”. This requires the Tribunal to have regard “not only to the interests of the party seeking the review or reconsideration, but also to the interests of the other party to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation” **Outasight** at [33]. The public interest in finality cannot and does not override the fundamental right of a party to participate in proceedings against it when there is an arguable defence.
40. This was confirmed by the Court of Appeal in **Phipps v Priory Education Services Ltd** [2023] EWCA Civ 652, [2023] I.C.R. 1043. It was held per Bean LJ at [31.2] that: “considerable weight must be given to the public interest in the finality of judicial decisions, both to protect the opposing party and to avoid overburdening the employment tribunal system”.
41. The reconsideration procedure is generally appropriate where there has been “some procedural mishap such that a party had been denied a fair and proper opportunity to present his case”. The procedure should not be invoked to correct a supposed error made by the Tribunal, especially an error of law: **Ebury Partners UK Ltd v Acton Davis** [2023] EAT 40, [2023] I.R.L.R. 486 per Judge Shanks at [24], and see also **Maltby v Chestnut Inns Ltd** [2025] EAT 130] at [71]-[72].
42. As regards reconsiderations on the grounds of non-receipt of proceedings / non-attendance at a hearing, in **Outasight** at [46] Judge Eady QC held as follows: If a party is not heard because the Notice of Hearing was not received, it is easy to see why it would be in the interests of justice to review the ET’s decision. That said, the specified ground would not give an automatic right. If the Notice of Hearing was not received because of some culpable default by the party concerned, it might well not provide a sound basis for a review; it would not be in the interests of justice to allow a case to be reopened on that basis.
43. This is analogous to the distinction drawn (in the context of extensions of time for service of a response) in **Kwik Save Stores Ltd v Swain** [1997] I.C.R. 49 per Mummery J at p.55A between a culpable default on the one hand and “a genuine misunderstanding or an accidental or understandable oversight” on the other.

Section 86 Companies Act 2006.

44. This obliges any company to ensure that its registered address is one at which documents addressed to the company and delivered in the ordinary course of post “would be expected to come to the attention of a person acting on behalf of the company”.
45. In **Zietsman v Stubbington** [2002] I.C.R. 249 at [33] it was held: “it is a simple matter for the employer to make arrangements for collection or redirection of post addressed to his last place of business”.

**Conclusions**

46. The mere fact that the respondent was not aware of proceedings, and so did not attend the hearing, does not mean it is in the interests of justice to grant a reconsideration. The Tribunal must ask whether the respondent was unaware of proceedings because of a “culpable default” on its part, or because of “a genuine misunderstanding or an accidental or understandable oversight”. Only in the latter case will a reconsideration be in the interests of justice.

Were there steps which, if they had been taken, would have resulted in the proceedings coming to the respondent’s attention prior to the date of the Final Hearing?

47. Clearly, if no such steps existed then the respondent’s lack of awareness of proceedings cannot have been through its own default.

48. The Tribunal has found that the documents were received at the Colliers Wood office, which was the respondent’s registered office. That is the starting point. From which the Tribunal’s analysis must proceed. Further and in any event, under Rule 88 of the 2024 Rules, a document posted in accordance with Rules 83 to 87 is taken to have been received by the addressee on the day on which it would be received in the ordinary course of post, unless the contrary is proved. The respondent has not discharged the burden of proving non-receipt in this case.

49. On the evidence before the Tribunal, the inescapable conclusion is that there were steps which the respondent could have taken to ensure that correspondence addressed to its registered office were received.

50. First, Mr Lingajothy could have changed the respondent’s registered address to one at which post could be safely received. Had the respondent done this prior to 8 February 2024, it would have been at that address that proceedings would have been served. Prior to the final hearing, the Tribunal checked the respondent’s registered office address to ensure the claim had been correctly served. Even if the registered office address had been changed at a late stage it would have been picked up.

51. Second, Mr Lingajothy could have requested that Mr Dayal or someone else at MDL to forward all the respondent’s post to his home address, or to some other address where it could be safely collected. Had he done so, he would have discovered the correspondence in these proceedings.

52. Third, failing that, Mr Lingajothy could have requested that Mr Dayal put all post aside for collection rather than returning it. Even if the relationship was strained, there is no evidence that Mr Dayal would not have acceded to what would have been a very simple request.

53. Fourth, Mr Lingajothy could simply have contacted the claimant and informed him that any correspondence in relation to his prospective claim should not be sent to the Colliers Wood office. This is particularly the case when Mr Lingajothy was aware that the claimant had commenced early conciliation.

54. The correspondence from the Tribunal was sent at regular intervals over the course of a year. Had any one of the above steps been taken at any point prior to the 10 January 2025 letter, at least one letter sent by the Tribunal would have reached Mr Lingajothy.

Was it was reasonable to expect the respondent to take one or more of those steps?

55. The reasonableness of Mr Lingajothy’s actions (or lack thereof) must be seen in light of his knowledge that not all the respondent’s post received at the Colliers

Wood office was reaching him and of his knowledge that the claimant had been to ACAS and commenced early conciliation.

56. As sole officer of the company, Mr Lingajothy was under a duty to ensure the appropriateness of the respondent's registered address, irrespective of whether litigation was in the offing.
57. Changing a registered office address is a simple administrative step. It was reasonable, in the circumstances, to expect him to do so in circumstances in which he knew that the Colliers Wood office was no longer an 'appropriate' address for the purposes of s.86 Companies Act 2006. He did nothing.
58. The Tribunal considers that, in these circumstances, there is a high bar to show that it was nonetheless reasonable to take no steps to remedy the issue.
59. The fact that he lost interest in the respondent's affairs does not absolve Mr Lingajothy from his responsibilities as sole director nor excuse his failure to discharge those responsibilities.
60. The Tribunal agrees with the claimant's submission that, where the registered office of a company becomes inappropriate, but is not changed because the director of the company has lost interest in its affairs, any resulting failure to discover post received at that address is the result of the respondent's culpable default. It cannot be regarded as a "misunderstanding" or "accidental oversight". This is especially so given that in this case Mr Lingajothy accepted both that he was aware of his duties under s.86 and aware of the likelihood that he was not collecting all the post received at the Colliers Wood office.
61. This was not a one-off omission or mistake. Rather, it was a continuing failure beginning in July 2023 when the SRA decision was made. If at any point in the 18 months from July 2023 to January 2025 the registered address had been changed, Mr Lingajothy would have become aware of proceedings (the last letter from the Tribunal is dated 10 January 2025). Nothing in the respondent's evidence excuses or explains such a sustained failure.
62. For the avoidance of doubt, while some medical documents have been adduced by Mr Lingajothy, these do not establish that he was incapable of sending off the relevant form. Indeed, Mr Lingajothy's interactions with ACAS and HMRC, and his continued management of his other companies, shows such a simple step was well within his capabilities. In any case, the evidence VL relies on covers only a small portion of the relevant period. It does not excuse such a sustained failure.
63. It would have been an equally simple matter to arrange for the storing or forwarding of post, or at the very least to ask for letters not to be returned so that they were there for collection on Mr Lingajothy's weekly visits. However, he did not at any point ask for post to be stored or forwarded. He offered no explanation for that failure. It appears he did not even consider the matter at the time. There is certainly no misunderstanding or 'accidental or understandable oversight' that explains the default. Rather, it is a matter of common sense that where the sole director of a company knows that post received at the company's registered address might not reach him, he should ensure that post is forwarded, stored for collection by him, or collected by someone else.
64. The Tribunal finds that Mr Lingajothy failed to make such arrangements because he had lost interest in the respondent's affairs, and because of his lax attitude towards correspondence generally. This amounts to culpable default on his part. His culpability is compounded by the fact his failure to make the proper arrangements for the handling of post was not a 'one-off but extended over 18

months. Had the proper arrangements been put in place at any point in this period, Mr Lingajothy would have discovered the proceedings.

65. For completeness, the fact Mr Lingajothy may have asked Ms Neng and Ms Man to collect post is irrelevant. Whether or not such request was made (the request is not mentioned in either of Mr Lingajothy's witness statements, nor in the statements of Ms Neng and Ms Man), Mr Lingajothy's evidence was that he knew that Ms Neng and Ms Man would not be able to comply with the request. He said he knew full well that the two women had to avoid accepting letters and instead would have had to return them. So the request was futile. The person Mr Lingajothy needed to speak to was Mr Dayal. He unreasonably failed to do so.
66. Finally, Mr Lingajothy could simply have contacted the claimant by email and told him to address post elsewhere. It was reasonable to expect him to do so, because the claimant had actually asked Mr Lingajothy to advise him of his preferred contact address. It would have been easy for Mr Lingajothy to read this email, which was received in his inbox, and reply to it. But he did not do so. He left the email unread. This was due to his own lack of diligence in reading emails. The failure is a culpable default on Mr Lingajothy's part, not an understandable oversight or misunderstanding.
67. In his oral evidence, Mr Lingajothy appeared to believe he was under no duty actively to ensure that post received at the Colliers Wood office came to his attention. Instead, he clearly thought that he could adopt a passive attitude unless and until someone else alerted him to the existence of the claim. It was only once he knew of proceedings that he could be expected to take steps to ensure post reached him. He even went as far as to suggest that the fault lay with the claimant for failing to serve proceedings and send correspondence via mutual friends.
68. This is obviously wrong and again demonstrates Mr Lingajothy's unreasonable lack of diligence in the handling of the respondent's affairs. The claimant cannot be faulted for addressing proceedings and subsequent correspondence to the respondent's registered address. Further, it cannot be suggested that Mr Lingajothy could only have been expected to attend to the respondent's post once he knew for certain that a claim had been brought. The onus was on him to take adequate steps to ensure post addressed to the respondent actually reached him, especially so given he knew that a claim was likely to be made. He should have taken steps to ensure that, if a claim was served on the respondent, it would reach him.
69. The Tribunal does not consider that the merits of the underlying defence are relevant. But, for completeness, the Tribunal finds that the respondent's defence, which rests entirely on showing that Duncan Ellis was the claimant's employer, has little reasonable prospect of success. The email from the SRA shows that the registered training provider need not necessarily be the trainee's employer; the SRA is not concerned with any contract of employment. Mr Lingajothy could not, as stated above, refer to anything showing this was incorrect. The payslips, P45 and P60 received by the claimant all state that the respondent was the claimant's employer, and it appears to have been the respondent which paid PAYE and NICs. Had the respondent merely been providing outsourced payroll services as Mr Lingajothy claims, it would have been Duncan Ellis who was recorded as employer. The SRA findings against Mr Sooben make clear that while the claimant worked from the Colliers Wood office (which he continued to do in 2023), he was under Mr Lingajothy's direction and control.
70. The interest in the finality of litigation weighs particularly heavily in this case given the lack of prospects of the defence.

71. The respondent's application for reconsideration is refused.

**Date: 8 January 2026**

**Approved by**

**Employment Judge Rice-Birchall**

**JUDGMENT SENT TO THE PARTIES ON**

**12<sup>th</sup> January 2026**

**O.Miranda  
FOR THE TRIBUNAL OFFICE**



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**Respondent:** Linga International Limited

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**On:** 20 November 2025

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17. Fifth, Mr Lingajothy did not properly review his first statement before signing the statement of truth. During the enforcement proceedings, Mr Lingajothy disclosed copies of the ACAS correspondence accompanied by a handwritten note saying the emails had not been received on time. This was in error. Mr Lingajothy accepted later the emails were properly received. But the error was not picked up until Mr Lingajothy's second witness statement. When Mr Lingajothy was asked whether he had received the documents and double-checked the position before signing his first statement, he repeatedly refused to answer the question. The obvious inference is that the statement was not properly reviewed.
18. Sixth, Mr Lingajothy was evasive as a witness. He refused to answer even simple questions. He often chose to answer the question he wished had been asked rather than that which was actually put to him. When pressed on difficult points, he was belligerent, he raised his voice, waggled his finger, and began asking his own questions or querying where the line of cross-examination was leading. This was exemplified when Mr Lingajothy was confronted by his inability to substantiate his claims about the SRA rules. This prompted a lengthy tirade against the author of the email of 23 October 2023 and their lack of qualifications.
19. Finally, Mr Lingajothy refused to accept his own mistakes. When confronted with the inaccuracies in his own evidence, Mr Lingajothy refused to accept his errors, choosing instead to double down and defend the indefensible. When confronted with the fact that the 20 November 2023 email had not in fact been sent to his spam folder, Mr Lingajothy claimed he was a technophobe who did not understand the distinction between a spam folder and an inbox.
20. These findings call into question the reliability of Mr Lingajothy's evidence regarding the events in question.

### **Findings of fact relevant to the issues**

21. Documents may validly be served at a company's registered office, or at a last known place of business. Valid service does not depend on showing that the

documents were actually read by an officer of the company.

22. Further and in any event, under Rule 88 of the 2024 Rules, a document posted in accordance with Rules 83 to 87 is taken to have been received by the addressee on the day on which it would be received in the ordinary course of post, unless the contrary is proved.
23. In this case, documents were sent to the respondent by the Tribunal at its registered office address on: 13 May 2024, 3 October 2024, 15 October 2024 and 10 January 2025 [CB/60-62]. The respondent was also sent the Notice of Claim and Response Pack shortly after the ET1 was presented.
24. All the above correspondence was correctly addressed to the respondent's registered office at 46 High Street Colliers Wood London SW19 2BY (i.e., the Colliers Wood office). There is no evidence that any of the above letters were returned to sender.
25. The Tribunal finds that on the balance of probabilities they did arrive at the respondent's registered office. In evidence, Mr Lingajothy did not seek to suggest that the letters did not arrive 'on the doormat' of the Colliers Wood office. There is no evidence to support an alternative conclusion.
26. It is clear that other post sent to that address was received. Two letters in the claimant's bundle were signed for by 'Linga'. The schedule of loss sent by the claimant on 26 March 2024 was received and opened at the Colliers Wood office (albeit that it was then returned to the claimant's solicitors). A letter from HMRC dated 20 March 2024 was received at the Colliers Wood office and actually read by Mr Lingajothy, who confirmed in evidence that he was aware of the letter and the dispute with HMRC.
27. Whilst Mr Lingajothy felt unwelcome attending the Colliers Wood office to collect post during ordinary office hours, he was able to visit the Colliers Wood office without incident either early in the morning or in the evenings. He did so weekly in order to collect post. He was also able to use the office equipment.
28. Mr Lingajothy explained in oral evidence that the difficulty in collecting post stemmed from his poor relationship with Mr Dayal, the new principal of the Colliers Wood office. The relationship between the two men was hostile. Mr Dayal returned any post addressed to Mr Lingajothy, despite knowing that he would be coming to collect it. Mr Lingajothy said Ms Man and Ms Neng were unable to comply with his request to collect his post for this reason. They "had to avoid accepting letters" and would have been made to return any letters received. Thus, not every letter received at the Colliers Wood office would be there when Mr Lingajothy visited.
29. Mr Lingajothy was fully aware from the start that Mr Dayal was returning the respondent's post. He was therefore aware that at least some letters would not be there when he came to collect his post.
30. Mr Lingajothy knew of the claimant's prospective claim against the respondent because ACAS had informed him of the EC notification and of the issuing of the EC certificate, and Mr Lingajothy had engaged with those emails. It is common sense that once an EC certificate is issued, a claim is likely to be made. Mr Lingajothy would have appreciated this at the time, and if not, he ought to have appreciated it. He was therefore on notice that a claim might be sent through the post.
31. The claimant gave Mr Lingajothy the opportunity to have post addressed elsewhere. The claimant had actually asked Mr Lingajothy to advise him of his

preferred contact address. An email of 20 November 2023 states: “If it was not the case that you refuse to engage, please do advise your preferred address where documents regarding the matter can be served in the future”. No response was received.

32. Significantly, on Mr Lingajothy’s own admission, since he became aware of the Judgment, he has taken steps to ensure that all post received at the Colliers Wood office actually reaches him, with the result that only one letter has been missed. There is no suggestion that Mr Lingajothy had any difficulty in implementing the additional steps (he described it as simply increasing his vigilance).
33. Mr Lingajothy said “The reason I have not changed the postal address of Linga International Ltd is because it was only incorporated in 2020 for the purpose of applying for registration with the OISC. However, the OISC did not promptly process the application, they took inordinate time. I was extremely dejected after the OISC refused to register the company since I did not want to keep this ill-fated company alive, I did not want to use a different registration address, and I just kept it as it was until I strike it off.” However, he eventually accepted that the failure to obtain OISC registration or his view of the company as “ill-fated” had no effect on his ability to apply to change the respondent’s registered office and admitted that the reason he had not changed the registered office was instead that he had “lost interest” in the company.
34. Mr Lingajothy referred at various points to health issues he faced. He did not however actually assert squarely that the reason he failed to take the steps above was because of ill health. The Tribunal finds that, in any event, there would be no basis for such a finding. In the relevant period Mr Lingajothy was able to engage with ACAS and HMRC, and to manage the affairs of his other companies. There is no evidence that ill health prevented him from taking what would have been simple administrative steps.

## Law

35. Rule 68 of the 2024 Rules provides:  
68.— Principles
  - (1) The Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so.
36. Rule 68 is the successor to Rule 70 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 (the 2013 Rules), which was materially identical.
37. But the formulation of the test for reconsideration as found in the 2024 and 2013 Rules differs materially from that found in earlier versions of the rules. In the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004 (the 2004 Rules), and earlier iterations of the rules, a reconsideration was referred to as a ‘review’. The test for a review was (as quoted here from Rule 34 of the 2004 Rules) as follows:  
**34.— Review of other judgments and decisions**
  - (3) Subject to paragraph (4), decisions may be reviewed on the following grounds only —
    - (a) the decision was wrongly made as a result of an administrative error;
    - (b) a party did not receive notice of the proceedings leading to the decision;
    - (c) the decision was made in the absence of a party;
    - (d) new evidence has become available since the conclusion of the hearing to which the decision relates, provided that its existence could not have been reasonably

- known of or foreseen at that time; or
- (e) the interests of justice require such a review.
38. The introduction of a single ‘necessary in the interests of justice’ test for reconsideration is merely a matter of simplification. It does not alter the substantive legal principles and the approach set out in the pre-2013 caselaw continues to apply: **Outasight VB Ltd v Brown** (21 November 2014) (EAT) at [30] and [46]-[48].
39. The ‘interests of justice’ test gives the Tribunal “a broad discretion, albeit one that must be exercised judicially”. This requires the Tribunal to have regard “not only to the interests of the party seeking the review or reconsideration, but also to the interests of the other party to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation” **Outasight** at [33]. The public interest in finality cannot and does not override the fundamental right of a party to participate in proceedings against it when there is an arguable defence.
40. This was confirmed by the Court of Appeal in **Phipps v Priory Education Services Ltd** [2023] EWCA Civ 652, [2023] I.C.R. 1043. It was held per Bean LJ at [31.2] that: “considerable weight must be given to the public interest in the finality of judicial decisions, both to protect the opposing party and to avoid overburdening the employment tribunal system”.
41. The reconsideration procedure is generally appropriate where there has been “some procedural mishap such that a party had been denied a fair and proper opportunity to present his case”. The procedure should not be invoked to correct a supposed error made by the Tribunal, especially an error of law: **Ebury Partners UK Ltd v Acton Davis** [2023] EAT 40, [2023] I.R.L.R. 486 per Judge Shanks at [24], and see also **Maltby v Chestnut Inns Ltd** [2025] EAT 130] at [71]-[72].
42. As regards reconsiderations on the grounds of non-receipt of proceedings / non-attendance at a hearing, in **Outasight** at [46] Judge Eady QC held as follows: If a party is not heard because the Notice of Hearing was not received, it is easy to see why it would be in the interests of justice to review the ET’s decision. That said, the specified ground would not give an automatic right. If the Notice of Hearing was not received because of some culpable default by the party concerned, it might well not provide a sound basis for a review; it would not be in the interests of justice to allow a case to be reopened on that basis.
43. This is analogous to the distinction drawn (in the context of extensions of time for service of a response) in **Kwik Save Stores Ltd v Swain** [1997] I.C.R. 49 per Mummery J at p.55A between a culpable default on the one hand and “a genuine misunderstanding or an accidental or understandable oversight” on the other.

Section 86 Companies Act 2006.

44. This obliges any company to ensure that its registered address is one at which documents addressed to the company and delivered in the ordinary course of post “would be expected to come to the attention of a person acting on behalf of the company”.
45. In **Zietsman v Stubbington** [2002] I.C.R. 249 at [33] it was held: “it is a simple matter for the employer to make arrangements for collection or redirection of post addressed to his last place of business”.

**Conclusions**

46. The mere fact that the respondent was not aware of proceedings, and so did not attend the hearing, does not mean it is in the interests of justice to grant a reconsideration. The Tribunal must ask whether the respondent was unaware of proceedings because of a “culpable default” on its part, or because of “a genuine misunderstanding or an accidental or understandable oversight”. Only in the latter case will a reconsideration be in the interests of justice.

Were there steps which, if they had been taken, would have resulted in the proceedings coming to the respondent’s attention prior to the date of the Final Hearing?

47. Clearly, if no such steps existed then the respondent’s lack of awareness of proceedings cannot have been through its own default.

48. The Tribunal has found that the documents were received at the Colliers Wood office, which was the respondent’s registered office. That is the starting point. From which the Tribunal’s analysis must proceed. Further and in any event, under Rule 88 of the 2024 Rules, a document posted in accordance with Rules 83 to 87 is taken to have been received by the addressee on the day on which it would be received in the ordinary course of post, unless the contrary is proved. The respondent has not discharged the burden of proving non-receipt in this case.

49. On the evidence before the Tribunal, the inescapable conclusion is that there were steps which the respondent could have taken to ensure that correspondence addressed to its registered office were received.

50. First, Mr Lingajothy could have changed the respondent’s registered address to one at which post could be safely received. Had the respondent done this prior to 8 February 2024, it would have been at that address that proceedings would have been served. Prior to the final hearing, the Tribunal checked the respondent’s registered office address to ensure the claim had been correctly served. Even if the registered office address had been changed at a late stage it would have been picked up.

51. Second, Mr Lingajothy could have requested that Mr Dayal or someone else at MDL to forward all the respondent’s post to his home address, or to some other address where it could be safely collected. Had he done so, he would have discovered the correspondence in these proceedings.

52. Third, failing that, Mr Lingajothy could have requested that Mr Dayal put all post aside for collection rather than returning it. Even if the relationship was strained, there is no evidence that Mr Dayal would not have acceded to what would have been a very simple request.

53. Fourth, Mr Lingajothy could simply have contacted the claimant and informed him that any correspondence in relation to his prospective claim should not be sent to the Colliers Wood office. This is particularly the case when Mr Lingajothy was aware that the claimant had commenced early conciliation.

54. The correspondence from the Tribunal was sent at regular intervals over the course of a year. Had any one of the above steps been taken at any point prior to the 10 January 2025 letter, at least one letter sent by the Tribunal would have reached Mr Lingajothy.

Was it was reasonable to expect the respondent to take one or more of those steps?

55. The reasonableness of Mr Lingajothy’s actions (or lack thereof) must be seen in light of his knowledge that not all the respondent’s post received at the Colliers

Wood office was reaching him and of his knowledge that the claimant had been to ACAS and commenced early conciliation.

56. As sole officer of the company, Mr Lingajothy was under a duty to ensure the appropriateness of the respondent's registered address, irrespective of whether litigation was in the offing.
57. Changing a registered office address is a simple administrative step. It was reasonable, in the circumstances, to expect him to do so in circumstances in which he knew that the Colliers Wood office was no longer an 'appropriate' address for the purposes of s.86 Companies Act 2006. He did nothing.
58. The Tribunal considers that, in these circumstances, there is a high bar to show that it was nonetheless reasonable to take no steps to remedy the issue.
59. The fact that he lost interest in the respondent's affairs does not absolve Mr Lingajothy from his responsibilities as sole director nor excuse his failure to discharge those responsibilities.
60. The Tribunal agrees with the claimant's submission that, where the registered office of a company becomes inappropriate, but is not changed because the director of the company has lost interest in its affairs, any resulting failure to discover post received at that address is the result of the respondent's culpable default. It cannot be regarded as a "misunderstanding" or "accidental oversight". This is especially so given that in this case Mr Lingajothy accepted both that he was aware of his duties under s.86 and aware of the likelihood that he was not collecting all the post received at the Colliers Wood office.
61. This was not a one-off omission or mistake. Rather, it was a continuing failure beginning in July 2023 when the SRA decision was made. If at any point in the 18 months from July 2023 to January 2025 the registered address had been changed, Mr Lingajothy would have become aware of proceedings (the last letter from the Tribunal is dated 10 January 2025). Nothing in the respondent's evidence excuses or explains such a sustained failure.
62. For the avoidance of doubt, while some medical documents have been adduced by Mr Lingajothy, these do not establish that he was incapable of sending off the relevant form. Indeed, Mr Lingajothy's interactions with ACAS and HMRC, and his continued management of his other companies, shows such a simple step was well within his capabilities. In any case, the evidence VL relies on covers only a small portion of the relevant period. It does not excuse such a sustained failure.
63. It would have been an equally simple matter to arrange for the storing or forwarding of post, or at the very least to ask for letters not to be returned so that they were there for collection on Mr Lingajothy's weekly visits. However, he did not at any point ask for post to be stored or forwarded. He offered no explanation for that failure. It appears he did not even consider the matter at the time. There is certainly no misunderstanding or 'accidental or understandable oversight' that explains the default. Rather, it is a matter of common sense that where the sole director of a company knows that post received at the company's registered address might not reach him, he should ensure that post is forwarded, stored for collection by him, or collected by someone else.
64. The Tribunal finds that Mr Lingajothy failed to make such arrangements because he had lost interest in the respondent's affairs, and because of his lax attitude towards correspondence generally. This amounts to culpable default on his part. His culpability is compounded by the fact his failure to make the proper arrangements for the handling of post was not a 'one-off but extended over 18

months. Had the proper arrangements been put in place at any point in this period, Mr Lingajothy would have discovered the proceedings.

65. For completeness, the fact Mr Lingajothy may have asked Ms Neng and Ms Man to collect post is irrelevant. Whether or not such request was made (the request is not mentioned in either of Mr Lingajothy's witness statements, nor in the statements of Ms Neng and Ms Man), Mr Lingajothy's evidence was that he knew that Ms Neng and Ms Man would not be able to comply with the request. He said he knew full well that the two women had to avoid accepting letters and instead would have had to return them. So the request was futile. The person Mr Lingajothy needed to speak to was Mr Dayal. He unreasonably failed to do so.
66. Finally, Mr Lingajothy could simply have contacted the claimant by email and told him to address post elsewhere. It was reasonable to expect him to do so, because the claimant had actually asked Mr Lingajothy to advise him of his preferred contact address. It would have been easy for Mr Lingajothy to read this email, which was received in his inbox, and reply to it. But he did not do so. He left the email unread. This was due to his own lack of diligence in reading emails. The failure is a culpable default on Mr Lingajothy's part, not an understandable oversight or misunderstanding.
67. In his oral evidence, Mr Lingajothy appeared to believe he was under no duty actively to ensure that post received at the Colliers Wood office came to his attention. Instead, he clearly thought that he could adopt a passive attitude unless and until someone else alerted him to the existence of the claim. It was only once he knew of proceedings that he could be expected to take steps to ensure post reached him. He even went as far as to suggest that the fault lay with the claimant for failing to serve proceedings and send correspondence via mutual friends.
68. This is obviously wrong and again demonstrates Mr Lingajothy's unreasonable lack of diligence in the handling of the respondent's affairs. The claimant cannot be faulted for addressing proceedings and subsequent correspondence to the respondent's registered address. Further, it cannot be suggested that Mr Lingajothy could only have been expected to attend to the respondent's post once he knew for certain that a claim had been brought. The onus was on him to take adequate steps to ensure post addressed to the respondent actually reached him, especially so given he knew that a claim was likely to be made. He should have taken steps to ensure that, if a claim was served on the respondent, it would reach him.
69. The Tribunal does not consider that the merits of the underlying defence are relevant. But, for completeness, the Tribunal finds that the respondent's defence, which rests entirely on showing that Duncan Ellis was the claimant's employer, has little reasonable prospect of success. The email from the SRA shows that the registered training provider need not necessarily be the trainee's employer; the SRA is not concerned with any contract of employment. Mr Lingajothy could not, as stated above, refer to anything showing this was incorrect. The payslips, P45 and P60 received by the claimant all state that the respondent was the claimant's employer, and it appears to have been the respondent which paid PAYE and NICs. Had the respondent merely been providing outsourced payroll services as Mr Lingajothy claims, it would have been Duncan Ellis who was recorded as employer. The SRA findings against Mr Sooben make clear that while the claimant worked from the Colliers Wood office (which he continued to do in 2023), he was under Mr Lingajothy's direction and control.
70. The interest in the finality of litigation weighs particularly heavily in this case given the lack of prospects of the defence.

71. The respondent's application for reconsideration is refused.

**Date: 8 January 2026**

**Approved by**

**Employment Judge Rice-Birchall**

**JUDGMENT SENT TO THE PARTIES ON**

**12<sup>th</sup> January 2026**

**O.Miranda  
FOR THE TRIBUNAL OFFICE**