



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

Bava Kamma Daf Chuf Aleph

- **R' Abba bar Zavda** asked **Mari bar Mar** to ask **R' Huna** whether one who lives in another person's chatzer without the owner's knowledge must pay rent. Before being able to ask him, **R' Huna** passed away. However, **Rabbah the son of R' Huna** said, that his father said in the name of **Rav** that he does not have to pay rent. He said that his father also said "if someone rents a house from Reuven he is to pay rent to Shimon".
 - **Q:** Why would he pay rent to Shimon? **A:** He meant to say, if he rented the house from Reuven, and it turns out that the house actually belonged to Shimon, he must pay rent to Shimon.
 - **Q:** This contradicts the first ruling, because Shimon didn't know about the person living there, so why should he have to pay Shimon rent? **A:** The case is that Shimon was trying to rent the space. Therefore, it is a case of where Shimon is losing out, and therefore he must be paid.
- **R' Chiya bar Avin in the name of Rav** said, one who lives in another person's chatzer without the owner's knowledge does not have to pay rent. Also, if someone rents a house from the town he is to pay rent to the owners.
 - **Q:** Why would he pay rent to "the owners"? **A:** He meant to say, if he rented the house from the town, and it turns out that the house actually belonged to certain people, he must pay rent to these people.
 - **Q:** This contradicts the first ruling, because the owner didn't know about the person living there, so why should he have to pay rent? **A:** The case is that the owners were trying to rent the space. Therefore, it is a case of where they are losing out, and therefore they must be paid.
- **R' Sechora in the name of R' Huna in the name of Rav** said, that the person who lives in the chatzer of another without his knowledge does not need to pay rent, because he saves it from the sheidem that attack empty houses. **R' Yosef** said, he does not have to pay because he maintains the house while he is there.
 - The difference between these reasons would be where the owner was using this house to store things (the sheidim wouldn't come, but maintenance is not being done either).
 - A person built a mansion on a garbage dump owned by orphans. **R' Nachman** took the mansion from the man until he paid the orphans for the use of the property. He said the person must pay, because the orphans had been renting out that land for a small amount of money, and it wasn't sitting totally useless.

KEITZAD MISHALEMES MAH SHENEHENIS...

- **Rav** said, the Mishna means that if the animal turns its head to the side of the reshus harabim and eats produce from the side, the owner will have to pay for the damage. **Shmuel** said, that even in this case the owner would be patur, because it is a regular case of shein in the reshus harabim.
 - **Q:** According to **Shmuel**, what is the case of where the owner is chayuv for the animal eating on the "side of the street"? **A:** Where the animal walked away from the middle and went to the side of the street and ate there.
 - **Q:** **R' Nachman bar Yitzchak** asked, the Mishna says that if the animal ate from the opening of the shop, the animal's owner pays for the benefit, not for the damage. Now this is clearly a case of where the animal turned its head, and yet we see he only pays for the benefit!? **A:** He himself answered, the case may be where the store was at a corner that jutted out into the reshus harabim, so that the animal was able to eat without having to turn to the side.

- **Some say** that all agree that if the animal turned its head and ate, the owner would be chayuv to pay for damages. The machlokes is where a person built a wall somewhat into his property, leaving a piece of his property outside his wall, and abutting the reshus harabim. If the person left fruit on that piece of property outside the wall and an animal went and ate it, **Rav** says that he would be patur, and **Shmuel** says that he would be chayuv.
 - **Q:** Should we say that they would also argue regarding a bor left in a person's reshus – and **Rav** who says that the animal would be patur when he ate from that area (showing that he holds it to be a reshus harabim) would say that he would be chayuv for this bor, and **Shmuel** who says that the animal would be chayuv would hold that the person would be patur for bor? **A:** **Rav** could say that a bor would be patur. It is only regarding eating of fruit that the owner can tell the owner of the fruit “you have no right to leave your fruit open right next to the reshus harabim and then claim that I am responsible if my animal eats it”. **Shmuel** could say that he would be chayuv for the bor, because the animal does not see them and can easily be damaged by it. However, with regard to the fruit, the animal can see them and its owner must therefore bear responsibility to watch it from damage.
 - **Q:** Maybe we can say that the question of whether an animal is chayuv for eating fruits in the reshus harabim when it had to turn its head to eat it, is actually a machlokes among Tanna'im. A Braisa says, **R' Meir and R' Yehuda** hold, if an animal eats from the middle of the street he must pay for the benefit, but if he eats from the sides of the street, he must pay for the damage. **R' Yose and R' Elazar** say, it is normal for an animal to walk, not to eat. Now, what is meant by that last statement? Maybe we can say that they are arguing regarding an animal that turned its head to eat. The **T"K** holds that he would only pay for the benefit, and **R' Yose** would hold that he is chayuv for damages!? **A:** They do not argue in that machlokes. They argue in whether the pasuk that requires “u'bi'eir bisdei achier” for shein to be chayuv comes to exclude the reshus harabim, or does it come to exclude the reshus hamazik.
 - **Q:** How can we even think that a mazik would be chayuv for shein in his own property!? He can tell the nizik, “why are your fruits in my property!?” **A:** We can say that the machlokes among these Tanna'im is the halacha of **Ilfa and R' Oshaya** (where the animal ate off the back of another animal in the reshus harabim, and whether that is considered to be the reshus of the nizik or not).

MISHNA

- If a dog or a goat jumped off a roof and broke keilim that they landed on, they must pay full damages, because they are a muad to jump (and is therefore a toldah of regel). If a dog took a cookie which still had a coal attached to it, and ate the cookie near a stack of produce, and left the coal there, which caused the stack to catch on fire and burn, the owner must pay full damages for the cookie and half damages for the stack of produce.

GEMARA

- The Mishna seems to say that he is chayuv for the broken keilim only because the animal jumped off the roof. This suggests that if the animal fell off the roof and broke keilim, the owner would be patur. We see that this Tanna holds that if something began with negligence and ended up being an oneis, the person would be patur. In fact, a Braisa clearly says that if the animals fell off, the owner would be patur.
 - **Q:** Whether a person who did something that began with negligence and ended with oneis is chayuv is actually a machlokes. How would the view that says the person is chayuv understand our Mishna and the Braisa? **A:** He will say that the case is that the keilim were against the wall, so that if the animal would have jumped, he would not have landed on the keilim. Therefore, it is not even considered to be a case of initial negligence.

- **R' Zvid in the name of Rava** said, there are times when the owner would be chayuv even if the animal fell, for example, if the wall was a narrow wall, and so the owner should have realized that the animal would fall.
- A Braisa says, if a dog or goat jumped and broke a keili, if they jumped to a higher place they are patur. If they jumped to a lower place they are chayuv. If a person or chicken jumped and broke a keili, they are chayuv whether they jumped to a lower place or to a higher place.
 - **Q:** Another Braisa says that the dog and goat are patur whether they jumped to a lower place or to a higher place!? **A: R' Pappa** said, this Braisa is discussing where the animal jumped down in an abnormal way – the dog jumped the entire distance, and the goat scrambled down and then jumped at the end (usually it is the other way around).
 - **Q:** If so, why are they patur? It should be a toldah of keren!? **A:** The Braisa means that they are patur from paying full damages, but would be chayuv to pay for half damages.