



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

Bava Kamma Daf Nun Zayin

- With regard to the shomer of a lost object, **Rabbah** says he has the status of a shomer chinam, because he is not getting any benefit for watching the object, and **R' Yosef** says he has the status of a shomer sachar, since he becomes patur from doing other mitzvos while he is busy watching the item, and would therefore not have to give tzedaka to a poor person at that time. **Others** say that **R' Yosef** says he is like a shomer sachar, because the Torah requires him to watch it even against his will.
 - **Q: R' Yosef** asked **Rabbah**, a Braisa says, if a shomer aveida returns the item to a place where the owner will see it, he is not chayuv if anything happens to it at that point. If it is stolen or lost, he is chayuv. Now, presumably the Braisa means that if the item was lost or stolen from the finder's house he is chayuv, and this proves that he is treated as a shomer sachar!? **A:** It means that it was stolen or lost from the place that he returned it to.
 - **Q:** That can't be, because the Braisa said that he is not chayuv anymore if he puts it there!? **A:** The Braisa is discussing two cases. The first case is where he returned it to that place in the morning, and he can therefore be sure that the owner will see it, and that is why he is patur. The second case is where he put it back there in the evening, when it is not likely that the owner will find it, and therefore he remains chayuv.
 - **Q:** A Braisa says, the shomer aveidah is always chayuv until the item is returned to the owner's reshuv. Now, what is meant by "always"? Presumably it means that he is chayuv even when it is stolen from his house, and this is a proof for **R' Yosef**!? **A:** **Rabbah** said, he would agree that when an animal is found, since they move and try to escape, the shomer aveidah is obligated to perform a higher degree of watching.
 - **Q: Rabbah** asked **R' Yosef**, a Braisa says, the word "hasheiv" in the pasuk would teach that the finder must return the item to the house of the owner. How do we know that he may even return it to the owner's garden or ruin? The word "tishiveim" teaches that it may be returned in any manner. Now, we must be referring to a garden that is not watched, because if it is, it would be the same as his house! This proves that he may return it to an unguarded place and not be chayuv, which is like a shomer chinam!? **A: R' Yosef** answered, the Braisa is referring to a guarded garden. Although this seems to be the same as his house, it teaches that the owner does not have to be aware that the item was returned, which is as **R' Elazar** says.
 - **Q: Abaye** asked **R' Yosef**, **R' Chiya bar Abba in the name of R' Yochanan** said, if a shomer aveidah falsely claims that the item was stolen from him, he must pay keifel to the owner. Now, if he is treated like a shomer sachar, when he makes that claim he must pay for the item anyway, so why would he then have to pay keifel!? It must be that he is treated like a shomer chinam!? **A: R' Yosef** said, **R' Yochanan** was referring to where he claims it was stolen by armed robbers, in which case even a shomer sachar would be patur (it is considered to be an oneis). Although, armed robbers are considered to be a "gazlan" (as opposed to a "ganav"), which doesn't pay keifel, since they hide from people, they are considered to be a ganav.
 - **Q:** A Braisa says that a shomer chinam is more stringent than a shomer sachar in that it pays keifel. Now, according to this answer this is not a stringency, because a shomer sachar pays keifel by armed robbers as well!? **A:** The Braisa meant the stringency that a shomer chinam pays keifel for all types of theft, whereas a shomer sachar only pays keifel when he makes a false claim of armed robbery.

- **Q:** A Braisa says, we learn that a borrower is chayuv to pay for a stolen or lost item from a kal v'chomer from shomer sachar – if a shomer sachar, which is patur if the item breaks or dies, is chayuv if it is stolen, then a borrower, which is chayuv if the item breaks or dies, will surely be chayuv if it is lost or stolen. Now, according to the above answer, we should ask that a shomer sachar is different because it pays keifel when he makes a false claim of armed robbery!?

A: The Tanna of this Braisa holds that paying for the principle amount without swearing is considered more stringent than one who pays keifel only after swearing falsely.
- **Q:** Maybe we can bring a proof that an armed robber is considered a ganav. A Braisa says, if someone rents a cow and it was stolen, and he says that he will pay instead of swearing that it was stolen, and the ganav is then found, the ganav must pay keifel to the renter. Now, it was presumed that the Braisa is following **R' Yehuda**, who holds that a renter is like a shomer sachar. The Braisa seems to say that if the renter would have sworn he would be patur. The only case he would be patur would be if armed robbers stole it. We see that armed robbers must pay keifel, and therefore see that they are considered as a ganav!

A: This is no proof, because the Braisa may be following **R' Meir**, who holds that a renter is like a shomer chinam, and the case is that it was stolen by a true ganav (not armed robbers). Or, we can say that the Braisa follows **R' Yehuda**, but it follows the version of **R' Yehuda** where he is the one who says that a renter is like a shomer chinam. **R' Zeira** said, the case may be where the renter claimed that it was stolen by armed robbers, but it was later determined to have been stolen by unarmed robbers, who are clearly given the status of “ganav” and must therefore pay the keifel.