



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

Bava Metzia Daf Kuf Beis

HAZEVEL SHEL BAAL HABAYIS V'EIN LASOCHER...

- **Q:** What is the case? If the chatzer was rented to the tenant along with the house, and the animal belonged to the tenant, why does the animal waste belong to the landlord? If the chatzer was not rented to the tenant, and the animals belong to the landlord, of course the waste belongs to the landlord!? **A:** The case is where the chatzer was not rented to the tenant, and animals from other people walked into the chatzer and left wastes there.
 - This supports **R' Yose the son of R' Chanina**, who says that a person's chatzer can be koneh for him even without his knowledge.
 - **Q:** A Braisa says, if a person says "let my chatzer be koneh for me all lost items that come into my chatzer today", the statement is not effective. Now, according to **R' Yose the son of R' Chanina** it should be effective!? **A:** The Braisa is talking about a chatzer that is not guarded, in which case even **R' Yose the son of R' Chanina** agrees that it cannot be koneh for the owner.
 - **Q:** The Braisa then says that if there is known to be a lost object in the city that day, his statement is effective. Now, if the chatzer is not guarded, why would this make a difference? **A:** If it is known that there is a lost item, people will separate themselves from the item once it is in his chatzer, and the chatzer therefore gets the status of a guarded chatzer.
 - **Q:** A Braisa says, the ashes from the ovens and that which is caught in the airspace of the chatzer (e.g. in a hanging bucket) belongs to the tenant, but the wastes in the barn and the chatzer belong to the landlord. Now, according to **R' Yose the son of R' Chanina** even what is caught in the airspace should belong to the landlord, because that is in his chatzer!? **A: Abaye** said, the case is where he attached a bucket underneath the animal. In that case the chatzer is not koneh for him. **Rava** said, airspace that is not destined to land in the chatzer is not considered to be in the chatzer, and that is why the chatzer is not koneh.
 - **Q:** We find that **Rava** was unsure about this issue, so how can he be so sure here? **A:** In the case in which he is unsure a wallet is thrown through a house. In that case there is nothing intervening between the wallet and the floor, and that is why he says maybe it is considered to have landed in the house. In our case, the bucket intervenes, and that is why he is sure that it is not considered to have landed on the ground.
 - **Q:** Why does the Braisa have to give the cases of the barn and the chatzer? **A: Abaye** said, the Braisa is referring to one case – a barn in a chatzer.
 - **R' Ashi** said, from here we see that when a person rents his chatzer without specifying, it does not include rental of the barn.
 - **Q:** A Braisa says that doves in the dovecote or the attic are considered to be from the wild and are therefore subject to the mitzvah of shiluach hakein, but are considered gezel to take, for the sake of peace. Now, according to **R' Yose the son of R' Chanina** we should say that his chatzer is koneh and it should not be considered as birds from the wild, which should make the mitzvah inapplicable!? **A: Rava** said, the Braisa is talking about an egg that is mostly out of the mother, but has not yet fallen into the chatzer. In this case it is chayuv in the mitzvah, because he is not yet koneh.

- **Q:** If so, why would it be considered gezel to take them? **A:** This part of the Braisa is referring to the mother bird. **A2:** It is referring the egg, but since most has already emerged from the mother, the owner of the chatzer has in mind to be koneh, so the **Rabanan** said it should not be taken from him.
- Now that **R' Yehuda** has said that it is assur to be koneh eggs that are still being roosted on by the mother, we can even answer that the Braisa is talking about where the egg already came out of the mother, and that is why it is chayuv in the mitzvah. However, since the person himself cannot yet be koneh at that point, his chatzer cannot be koneh for him either.
 - **Q:** If so, why is taking them considered to be gezel D'Rabanan? If the mitzvah was done, it should be gezel D'Oraisa to take them, and if the mitzvah was not yet done, it should not be gezel at all!? **A:** The case is where a minor took the eggs, and he is not subject to the mitzvah.
 - **Q:** A minor is not subject to a D'Rabanan for the sake of peace either!? **A:** The Braisa means that the father of the minor should return the eggs for the sake of peace.

MISHNA

- If someone rents a house for a year and the year then became a leap year, the tenant gains the extra month. If he rented by the month and the year became a leap year, the landlord must be paid for the additional month.
 - It once happened in Tzipori that someone rented a bathhouse for 12 gold dinars for the year, a dinar per month, and the year then became a leap year. When it was brought to **R' Shimon ben Gamliel and R' Yose**, they said that the additional month should be divided.

GEMARA

- **Q:** The story seems to contradict the halacha of the Mishna!? **A:** There are words missing in the Mishna. The Mishna should be read as saying, if the arrangement was for "12 dinars for the year, a dinar per chodesh" and the year became a leap year, the additional month should be divided. The Mishna then brings the story to prove that point.
 - **Rav** said, had I been there I would have given the entire month to the landlord.
 - **Q:** Is he teaching that we follow the final expression that is said by a person? He has already said that elsewhere, where a seller gave a price of "an istira, 100 ma'os", and **Rav** said we follow the 100 ma'os price!? **A:** In that case we would have thought that the seller is simply explaining what type of istira to use – one valued at 100 ma'os, but it is not because we follow that last expression. **Rav** therefore says it here to teach this concept.
 - **Shmuel** said, the case was where the landlord came to Beis Din in middle of that extra month, and that is why he got half of the month's rent. Had he come at the beginning of the month, he would have gotten the entire month's rent, because he is the muchzak on the bathhouse. Had he come at the end of the month he would have gotten nothing, because the tenant is the muchzak on the money at that point.
 - **R' Nachman** said, real property remains in the chazaka of the owner, and therefore the landlord would always get that extra month's payment.
 - **Q:** Is he teaching us that we follow the last expression? **Rav** has already said that!? **A:** He holds that the landlord gets the extra month's rent even if the arrangement would have been stated as "one dinar per month, 12 dinars for the year".
- **Q:** They asked **R' Yannai**, if the tenant says that he already paid the rent and the landlord says he has not received it, who must bring proof?
 - **Q:** What is the case? If the rent was not yet due, we have learned in a Mishna that there is a presumption that a debt is not paid before it is due, and if it was already due, we have learned in the same Mishna that after a due date there is a presumption that it

was paid!? **A:** The question is relevant on the due date itself. Do we say that people pay on that day or not?

- **A: R' Yochanan** answered the question as follows. A Mishna says, if a hired worker asks to be paid on the day that the wages are due and the employer says it was already paid, the worker may swear and get paid. Now, it seems to be that only in this case the **Rabanan** make the plaintiff swear (typically it is the defendant who swears), because an employer is busy and could have easily been mistaken, and that is why we don't want him swearing (he would think he is swearing truthfully). However, in the case of a rental, the obligation to swear would stay with the defendant (i.e. the tenant) and he would swear that he has already paid and would not have to pay anything more.