



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

### Bava Metzia Daf Kuf Yud Aleph

S'CHIR SHA'OS GOVEH KOL HALAYLA V'CHOL HAYOM

- **Rav** said, an hourly worker hired to work during the day must be paid that day. An hourly worker hired to work at night must be paid that night. **Shmuel** said an hourly worker hired to work during the day must be paid that day. An hourly worker hired to work at night must be paid that night or the following day.
  - **Q:** The Mishna said that an hourly worker hired to work at night must be paid that night or the following day. This refutes **Rav!**? **A: Rav** could say that the Mishna is covering two separate rulings - an hourly worker hired to work during the day must be paid that day, and an hourly worker hired to work at night must be paid that night.
  - **Q:** The Mishna said, a worker hired for the week, the month, the year, or the shmitta cycle, if he completes the work by day he must be paid by day and if he completes the work at night he must be paid that night or the following day. This seems to refute **Rav!**? **A: Rav** could say that it is actually a machlokes among Tanna'im. A Braisa says, **R' Yehuda** says, an hourly worker hired to work during the day must be paid that day, and an hourly worker hired to work at night must be paid that night. **R' Shimon** says, an hourly worker hired to work during the day must be paid that day, and an hourly worker hired to work at night must be paid that night or the following day. The Braisa says, from here we see that anyone who withholds a worker's wages is oifer on 5 lavim and one assei – "baal taashok es rei'acha", "baal tigzol", ""baal taashok sachir ani", "baal talin", "b'yomo titein s'charo", and "lo savo alav hashemesh".
    - **Q:** Some of these only apply for day workers and some only for night workers, so how can one situation make the employer be oifer for them all? **A: R' Chisda** said, the Braisa was just listing all the different prohibitions, but not saying that they would all apply to one person.
- **Q:** What is considered "oshek" (holding back wages) and what is considered "gezel" (robbery of wages)? **A: R' Chisda** said, if the employer keeps telling the worker "go and come back, go and come back", that would be "oshek", but if he tells him "I have your wages, but I will not give it to you", that would be "gezel".
  - **Q: R' Sheishes** asked, we know that if someone swears falsely regarding oshek of holding back of wages he would be chayuv to bring a korbon. The case that this would be, is a case like that of a deposit – meaning that he totally denies the claim. This means that oshek is not a case of where he postpones the worker, but rather one of where he denies!? **A: R' Sheishes** therefore said, oshek is where the employer claims to have already paid the wages, whereas gezel is where he says "I have your wages, but I will not give it to you".
  - **Q: Abaye** asked, we know that if someone swears falsely regarding gezel of wages he would be chayuv to bring a korbon. The case that this would be, is a case like that of a deposit – meaning that he totally denies the claim. This means that gezel is not a case of where he admits that he owes the wages, but rather one of where he denies!? **A: Abaye** therefore said, oshek would be where the employer says "I never hired you". Gezel would be where he says "I already paid you".
  - **Q:** Why did **R' Sheishes** only have the question regarding oshek, and not regarding gezel? **A: R' Sheishes** would say, the case of gezel is talking about a case where the employer stole from his employee by refusing to pay, and when he was later brought to Beis Din, he denied ever owing the money. This answer can't be given for the case of oshek, because the verbiage of the pasuk does not fit for that case of oshek, only for that case of gezel.

- **Rava** said, that oshek and gezel are truly one and the same. The reason they are listed as separate cases is to make the employer oiver for two laavim.

## MISHNA

- Whether it is the wages of a worker, or the wages for renting an animal or keilim, the payment is subject to the requirement of “b’yomo titein secharo” and of “lo salin pe’ulas sachir”.
- When is one chayuv for the laavim? Only when the worker demanded the money and it wasn’t then given. However, if payment was not demanded, he is not oiver. If the employer told the worker to go to a storekeeper and take merchandise from him as his payment, or told him to go to a moneychanger to get payment, but the worker never ended up being paid, he is not oiver.
- If a worker makes a claim for his wages at the time they are due, he is believed to swear that he is owed the money and then get paid. If that time has passed, he would no longer be believed to swear and get paid. However, if there are witnesses that he demanded payment at the time it was due, he is then believed to swear and get paid even at a later time.
- The wages due to a “ger toshav” (a goy who has accepted upon himself not to worship avodah zarah) are subject to “b’yomo titein secharo” (which applies to a night worker), but not to “lo salin pe’ulas sachir...” (which applies to a day worker).

## GEMARA

- **Q:** Our Mishna seems not to follow any shita of the following Braisa. The Braisa says, the pasuk regarding withholding wages says “mei’achecha”, which excludes a goy; “geircha”, includes a full-fledged ger; “bisharecha”, includes a ger toshav; “b’artzicha” comes to include wages for animals and keilim. From here they said, whether it is wages for workers, for animals, or for keilim, it is subject to “b’yomo titein secharo” and to “lo salin pe’ulas sachir...”. **R’ Yose the son of R’ Yehuda** says, the wages for a “ger toshav” are subject to “b’yomo titein secharo”, but not to “lo salin pe’ulas sachir...”, and with regard to wages for animals and keilim, they are only subject to “baal taashok”. Now, our Mishna doesn’t follow the **T”K**, based on his view regarding a ger toshav, and it doesn’t follow **R’ Yose**, based on his view of animals and keilim!?
  - A: Rava** said, our Mishna follows the Tanna of the yeshiva of **R’ Yishmael**, who taught that wages for animals and keilim are subject to “b’yomo” and to “lo salin”, whereas wages for a ger toshav are only subject to “b’yomo” and not to “lo salin”.
    - **Q:** What is the basis for the view of the **T”K** of the Braisa (that all laavim apply to all situations)? **A:** He has a gezeira shava of “sachir” “sachir”, which teaches that all apply to all cases. **R’ Yose the son of R’ Yehuda** does not darshen this gezeira shava, which is why the laavim that apply to a day worker (lo salin) do not apply to a ger toshav, to animals, or to keilim (because they are only included in the other pasuk).
      - **Q:** The pasuk that includes animals and keilim is immediately before the pasuk of “b’yomo”, so even without a gezeira shava, that pasuk should apply!?
        - A: R’ Chananya** taught a Braisa that says, the pasuk says one cannot allow the sun to set before wages “because the worker is poor”. This teaches that only those who can be in a situation of being wealthy or poor are included in these halachos. Therefore, animals and keilim are not included.
        - **Q:** What does the **T”K** do with this pasuk of “because he is poor”? **A:** He uses it to teach that if one has two workers to pay, preference is given to paying a poor worker over a wealthy worker.
          - **R’ Yose** will learn this from the pasuk of “lo saashok sachir ani v’evyon”.
          - The **T”K** will say one pasuk is needed to give preference to a poor person over a wealthy person, and the other pasuk is needed to give preference to a poor person over an absolutely destitute person. Both are needed. If we would only have the second pasuk we would say that the destitute person is not embarrassed to demand his money, and that may be why he comes after a regular person, but the poor person doesn’t come before a wealthy person, because the wealthy person is even more ashamed to demand his money. If we would only have the first pasuk, we would say that a poor person is given preference

because he needs the money more than the rich person, and therefore we would say that the totally destitute person comes before a poor person.

- **Q:** With regard to the Tanna of our Mishna, if he holds of the gezeira shava of “sachir” then a ger toshav should be included in all the laavim, and if he does not darshan the gezeira shava, how does he know to include the payment for animals and keilim in the laavim? **A:** He does not darshan the gezeirah shava. He learns animals and keilim from the word “itcha” in the pasuk.
  - **Q:** Why doesn’t he also learn from there to include a ger toshav? **A:** The word “rei’acha” comes to exclude a ger toshav.
  - **Q:** Why doesn’t this exclude animals and keilim as well? **A:** “Itcha” is an inclusion and “rei’acha” is an exclusion. It makes sense to include animals and keilim, because they are the money of Yidden, and to exclude a ger toshav, because that is not the money of a Yid.
  - **Q:** What does the **T”K** of the Braisa use the word “rei’acha” for? **A:** He uses it to teach that the lav regarding a day worker does not apply to a goy.
    - **Q:** We already learned that exclusion from “mei’achecha”!? **A:** One pasuk is needed to allow holding the wages of a goy, and one is needed to allow gezel of a goy. If we only were taught regarding gezel, we would say that is mutar because he may have not worked for the money. If we would only have the pasuk regarding wages, we would say it is mutar because it has not yet entered his hands.
    - **Q:** What does **R’ Yose** do with the pasuk of “itcha” (since he says that rental payments are not subject to the lav of “lo salin”)? **A:** He darshens it like **R’ Assi**, to teach that even if the worker was only hired to pick one cluster of grapes, his wages would be subject to the lav of lo salin.
      - The Tanna of our Mishna would learn this from the pasuk of “v’eilav hu nosei es nafsho”.
      - **R’ Yose** will use this pasuk to teach that a worker risks his life for his wages, and it must therefore be treated very carefully. Or, it can teach that one who withholds wages is considered as if he took a life.
    - **R’ Huna and R’ Chisda** argue – one says this refers to the life of the one who withheld the wages (he gets punished with his life), and the other says this refers to the life of the victim (he needs his wages to live). They each base their view on a pasuk.