



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

### Bava Metzia Daf Kuf Yud Beis

EIMASAI BIZMAN SHETAVO...

- A Braisa says, we would think that the lav of "lo salin pe'ulas sachir" applies even when the money wasn't demanded by the worker. The pasuk therefore adds "itcha", which means "with your will", which teaches that he is oiver if the delayed payment is based on his will, but is against the will of the worker. We would think he would be oiver even if he didn't have money with which to pay. The pasuk therefore adds the word "itcha" which teaches that he is only oiver if he has the money "with him". We would think he would be oiver even if he told the worker to go to a storekeeper or moneychanger to get paid. The word "itcha" teaches that he would not be oiver in that case.

HIMCHAHU EITZEL CHENVANI V'EITZEL SHULCHANI EINO OIVER

- **Q:** If the storekeeper never ended up paying the worker, may the worker go back to the employer to get paid? **A: R' Sheishes** said he may not, and **Rabbah** said that he may, as can be learned from the Mishna which says that by sending the worker to the storekeeper "he is not oiver", which suggests that he is not oiver if the worker isn't paid, but is still obligated to see that he gets paid. **R' Sheishes** said, the Mishna means he is no longer even subject to being oiver, because once he sends him to the storekeeper to get paid, he is not obligated to see that he gets paid anymore.
- **Q:** They asked **R' Sheishes**, does the lav of lo salin apply to a worker who is paid for a particular job (like a craftsman, as opposed to a worker paid based on time)? Do we say that the craftsman is koneh the improvement he makes to the keili, which makes the money owed to him considered to be a loan, and as such is not subject to lo salin, or do we say that he is not koneh the improvement to the keili, and he is owed a wage, which is therefore subject to lo salin? **A: R' Sheishes** said, the employer would be oiver for lo salin.
  - **Q:** A Braisa says he would not be oiver!? **A:** That Braisa is referring to a case where he sent the craftsman to a storekeeper or moneychanger to be paid. That is why he is not oiver.
  - **Q:** Maybe we can bring a proof to **R' Sheishes** from a Braisa. The Braisa says, if someone gives a garment to a craftsman to make, and when it is completed he picks up the garment and does not pay the craftsman before sundown, he has transgressed the lav of "lo salin". Now, if the craftsman is considered to be koneh the improvement, he is not being paid as a worker, but is rather selling the improvement, and his money would therefore not be subject to the lav of "lo salin"!? **A: R' Mari the son of R' Kahana** said, the case in the Braisa is where the craftsman was doing a service of raising the hairs on the garment, which provides no improvement, and as such he is a worker rather than a person who is providing improvement.
    - **Q:** Raising the hairs softens the garment, and that softening is considered to be an improvement!? **A:** The case is that the craftsman was hired to stamp down on the cloth, where there is typically a set price for every series of stamping. That is why he is considered to be earning a wage.

SACHIR BIZMANO NISHBAH V'NOTEL...

- **Q:** Why is it that the **Rabanan** instituted that a worker can swear and take the wages from the employer? **A: R' Yehuda in the name of Shmuel** said, (this is one of the) major halachos were taught here.
  - **Q:** This is a Rabbinic takanah, not a halacha D'Oraisa, so why does **R' Yehuda** say it is a "halacha"? **A:** Rather, read it as saying that **R' Yehuda in the name of Shmuel** said, (this is one of the) major takanos were taught here.

- **Q:** What is meant by “major”? Are we to say that there are also “minor” takanos here? **A:** Rather, **R’ Nachman in the name of Shmuel** said, these are lasting takanos that were taught here (even though they uproot a halacha D’Oraisa, these takanos were made). In truth, it is the employer who should have to swear and free himself from paying. The **Rabanan** uprooted this oath and placed it on the worker, because it is the livelihood of the worker.
  - **Q:** Just because it is his livelihood we make the employer suffer a loss? **A:** The employer is happy with this takanah, because it helps him attract workers to come and work for him.
  - **Q:** Maybe we should say that the worker is happy to have the employer swear, so that more people would be willing to hire workers!? **A:** Someone who needs workers has no choice but to hire workers, and they therefore don’t need to be incentivized to do so.
  - **Q:** A worker who needs work also has no choice but to hire himself out, so why do we need to incentivize them to do so? **A:** Rather, the reason we have the worker swear is because the employer is busy and may mistakenly swear falsely (unintentionally). Therefore, we put the oath on the worker.
    - **Q:** If so, why didn’t they just give the wages to the worker upon demand, without the need to swear? **A:** This was done to calm the employer, who feels that he already paid.
  - **Q:** Why didn’t the **Rabanan** instead institute that the wages should be given to a worker only in the presence of witnesses? **A:** That would be a bother.
  - **Q:** Why didn’t they instead institute that the worker get paid before he begins working (and before the employer is busy)? Then there would be no reason for an oath!? **A:** They both rather wait until after the work is done (the employer doesn’t always have money before then, and the worker doesn’t want to worry about losing the money during the work).
  - **Q:** If the **Rabanan** took the oath away from him because he is busy, why is it that when there is an argument as to the amount of money that was supposed to be paid, a Braisa says that the employer is believed? **A:** People definitely remember how much the deal was for. They can sometimes forget whether or not the amount was yet paid.
  - **Q:** If this is the reason for the takanah, why is it that the worker is only believed with an oath during the time that he is supposed to get paid, but not after, which is what our Mishna says? **A:** We have a chazaka that an employer will not be oiver the lav of lo salin. Therefore, the worker is not believed to say that the employer was oiver the lav.
    - **Q:** We said that an employer is busy, so how can we assume that he paid on time? **A:** He is busy and forgets only before his obligation to pay sets in. Once it does, he focuses and remembers to pay.
    - **Q:** Are we saying that we are concerned that the worker is trying to steal? **A:** The employer has two chazakos – that he will not be oiver on lo salin, and that a worker does not delay in collecting his wages. The worker has only one chazaka – he would not steal. Therefore, the employer is believed even without having to swear.

#### IHM YEISH EIDIM SHETAVO HAREI ZEH NISHBAH V’NOTEL

- **Q:** Why is it better when he has witnesses that he asked for the money after it was already due? Right now he is in Beis Din asking for the money after it was due!? **A:** **R’ Assi** said, the Mishna means he has witnesses that he asked for the money when it was due (not after that time). In that case, even later on he is believed to swear and take his wages.
  - **Q:** Maybe the employer paid after he was asked for the money? **A:** **Abaye** said, the case is that the worker asked for the money at the end of the time that it was due, which shows that the employer did not pay during the time it was due.
    - **Q:** Does this mean that the worker will be believed forever? **A:** **R’ Chama bar Ukva** said, he is believed for an additional day.