



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

Bava Metzia Daf Lamed Vuv

- We have learned, if one shomer gives the deposit to a second shomer, **Rav** said the first shomer will be patur if something happens to the item while in the possession of the second shomer, and **R' Yochanan** said he would be chayuv.
 - **Abaye** said, according to **Rav**, the first shomer is patur, even if the first shomer was a paid shomer (who has higher responsibility) and the second shomer was a shomer chinam (who has less responsibility), since the second shomer is still a person with mental capacity. According to **R' Yochanan**, the first shomer is chayuv even if the second shomer had a higher level of responsibility, because the owner can tell the shomer, it is only you that I trust with an oath, and not this second person.
 - **R' Chisda** said, the view of **Rav** was inferred incorrectly from a story that took place. There were a bunch of farmers who would give their tools to a certain elderly woman to watch for them. One day they gave it to one of the farmers to watch instead. That farmer then heard a celebration going on so he took the tools and gave it to the elderly woman to watch. The tools were stolen. **Rav** said the farmer who was given the tools to watch was patur. The talmidim thought he was patur because a shomer who gives to another shomer is patur. However, in truth, the reason why he was patur was because those farmers always gave the tools to this woman and they therefore could not claim that they didn't trust her.
 - **Q: R' Ami** repeated the view of **R' Yochanan**. **R' Abba bar Mamal** asked, our Mishna says, if the renter lends out the item he is patur from paying. Now, according to **R' Yochanan** he should be chayuv, because he is a shomer who gave something to another shomer!? **A: R' Ami** said, the case of the Mishna is where the owner gave the renter permission to lend out the item.
 - **Q: If so, why does the borrower pay the money to the renter? He should pay to the owner!?** **A: The owner** told the renter "you can lend it out at your discretion". Therefore, the renter is considered to be the lender.
 - **Q: Rami bar Chama** asked, a Mishna says, if someone was given money to watch, and the shomer gave the money to his minor children and something happened to the money, he would be chayuv. This suggests that if he had given it to adults to watch he would be patur. This refutes **R' Yochanan**!? **A: Rava** said, he would be patur if he gave it to his adult children, because when someone gives something to a shomer to watch, he gives it with the understanding that it may be given to his wife or adult children to watch. However, if he gave it to anybody else, he would not be patur.
 - **Rava** said, the halacha is, that if one shomer gives the deposit to a second and something happens to the item while in the possession of the second shomer, he would be chayuv even if the second shomer had a higher level of responsibility, because the owner can tell the shomer, it is only you that I trust with an oath, and not this second person.
- We have learned, if a shomer was negligent and the animal escaped to the swamp and died on its own there, **Abaye in the name of Rabbah** said he would be chayuv, and **Rava in the name of Rabbah** said he would be patur.
 - **Abaye in the name of Rabbah** said he is chayuv even according to the view that when something begins as negligence and ends off being an oneis he is patur. In this case he would be chayuv, because we say it may have been the bad air of the swamp that killed him. **Rava in the name of Rabbah** said he is patur, even according to the view that when something begins as negligence and ends off being an oneis he is chayuv. In this case he

would be patur, because we say that the Malach Hamaves would have killed him whether he was still in the barn or was in the swamp.

- **Abaye** would agree that if the animal was returned to the owner and died there, the shomer would be patur, because since it was returned and then died, it was not the bad air of the swamp that killed it. **Rava** would agree that if a ganav stole the animal from the swamp and it died on its own in the ganav's possession, the shomer would be chayuv, because even if the animal hadn't died the shomer would be chayuv for having had the animal stolen.
- **Q: Abaye** asked **Rava**, we learned above that **R' Ami** explained that our Mishna is discussing where the renter was given permission to lend out the animal, and that is why the renter is patur if the animal were to die by the borrower, but if he was not given permission he would be chayuv. According to you (**Rava**), the renter should be patur even if he was not given permission, because he should tell the owner – the Malach Hamaves would have killed the animal wherever it was!? **A: Rava** answered, I hold that the reason a shomer who gave the item to another shomer is chayuv is because the owner can tell the shomer it is only you that I trust with an oath, and not this second person. Based on that, since the renter will be able to swear in this case, and the owner does not have to accept anyone else oath, the renter will be patur.
- **Q: Rami bar Chama** asked, a Mishna says, if a shepherd took an animal up a steep mountain and it fell off and died, it is not called an oneis and he would therefore be chayuv. This suggests that if it died on its own on top of the mountain, he would be patur. Now, according to **Abaye**, why would he be patur? We should say that the bad air on top of the mountain, or the exhaustion of the climb is what killed it!? **A:** The case is that the shepherd took up the animal to a good place for pasture. Therefore, the shepherd is not considered to have been negligent at all.
 - **Q:** If so, even if it fell he should not be chayuv!? **A:** He should have held the animal tightly and he did not. That is why he is chayuv.
 - **Q:** The earlier part of the Mishna says, if the animal went up the mountain on its own and fell, it is considered to be an oneis and the shepherd is patur. There too, we should say that he should have held onto the animal tighter!? **A:** The case is that the animal was stronger than the shepherd, and he couldn't hold it back. That is why it is an oneis.

AMAR R' YOSE KEITZAD HALAH OSEH SECHARO BIPARASO...

- **R' Yehuda in the name of Shmuel** paskened like **R' Yose**.
 - **Q: R' Shmuel bar Yehuda** asked **R' Yehuda**, you have told us that **R' Yose** even argues in the first Mishna (and says that even when the shomer paid for the item, the keifel goes to the owner). Do we pasken like him there as well? **A: R' Yehuda** said, he argues there as well, and we pasken like him there as well.
 - We have learned that **R' Elazar** said, **R' Yose** also argued in the first Mishna, and we pasken like **R' Yose** there as well, and **R' Yochanan** said, that **R' Yose** does not argue in the first Mishna, because the shomer already paid before the ganav was caught.
 - **Q:** We have learned that **R' Yochanan** said that even a statement that he will pay, without actual payment, gives the shomer the right to collect the keifel!? **A:** It must be that **R' Yochanan** said that **R' Yose** agrees in the first Mishna, because the shomer already said that he will pay for the item.