



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

### Bava Metzia Daf Tzaddik Hey

- **Q:** How do we know that a sho'el is chayuv to pay when the item is stolen or lost? We can't say that we learn it from a broken animal or one that dies, because those are different in that they can't be brought back to the state in which they were, but a lost or stolen animal could! **A:** 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. This is a kal v'chomer that has no refutation.
  - **Q:** What possible refutation would you think there could be? **A:** You would think to say that a shomer sachar is more stringent in that he pays keifel if he falsely claims that it was stolen by armed robbers. However, this is not a refutation, because the fact that a borrower must always pay the principle is more stringent than the possibility of sometimes paying keifel. Or we can say that an armed robber is considered to be a gazlan, and therefore there is actually no keifel associated with it.
  - **Q:** How do we know that a sho'el is patur for loss or theft if the owner of the borrowed item is working for him at the time of the borrowing? It can't be learned from the case of the animal that breaks or dies, because those are a case of oneis, and theft and loss are not! **A:** We learn it from a shomer sachar (just like he is patur for theft or loss if the owner was working for him, a sho'el would be patur as well).
    - **Q:** How do we know that a shomer sachar is patur if the owner is working for him? **A:** We learn it from sho'el. Just as a sho'el is patur from what he is normally chayuv (breaking or death) if the owner was working for him, so too a shomer sachar is patur from what he is normally chayuv (loss or theft) if the owner was working for him at the time.
      - **Q:** What type of derivation is this? If it is a “mah matzinu”, we can ask that the case of breaking and death is a case of oneis whereas theft and loss are not, and therefore it cannot be learned from them!? **A:** Rather, it is learned as follows. The parsha of sho'el follows the parsha of shomer sachar, and the parsha of sho'el begins with a “vuv” (“v'chi yishal”). This “vuv” connects the parshiyos and we then learn shomer sachar from sho'el.
    - **Q:** How can we learn sho'el from shomer sachar? Maybe he is patur from loss and theft when the owner is with him because he is also patur for breaking and death. However, a sho'el, who is chayuv for breaking and death maybe is also chayuv for loss and theft even when the owner was working for him!? **A:** Rather, we must say as follows. We said above that we learn that a sho'el is chayuv for loss and theft based on a kal v'chomer from shomer sachar. We say “dayo” that just as the shomer sachar is only chayuv when the owner was not working for him, the same is true for a sho'el.
      - **Q:** That makes sense according to the view that we say “dayo”. However, according to the view that we do not, how will we learn that a sho'el is patur for loss or theft when the owner is working for him? **A:** Rather, it is learned as follows. The parsha of sho'el follows the parsha of shomer sachar, and the parsha of sho'el begins with a “vuv” (“v'chi yishal”). This “vuv” connects the parshiyos and we then learn sho'el from shomer sachar.

- We have learned, whether a shomer becomes patur for negligence if the owner is working for him is actually a machlokes between **R' Acha and Ravina** – one says he would be chayuv and the other says he would be patur.
  - The one who says he is chayuv holds that the parsha of sho'el can be used to teach to the immediately preceding parsha (of shomer sachar), but not to the parsha preceding that one (of shomer chinam), and since the concept of negligence is only written in the parsha of shomer chinam, the concept of being patur because the owner is working for him does not apply to negligence. The one who holds he is patur holds that the parsha of sho'el can even be used to teach to two parshiyos earlier (of shomer chinam) and therefore the concept of being patur when the owner works for him applies to negligence as well.
    - **Q:** Our Mishna discusses the exemption of when the owner works for the shomer, but only discusses the sho'el, not a shomer chinam. This refutes the second view!? **A:** The Mishna doesn't mention shomer sachar, and yet we know that this exemption applies to shomer sachar as well. We must therefore say that the Tanna only mentioned the shomer with regard to which the halacha was mentioned explicitly. That is why it only mentioned sho'el.
    - **Q:** A Braisa says that a sho'el is patur if the owner was working for him and that a renter is patur if the owner was working for him. Now, they thought that the Braisa follows **R' Yehuda**, who says that a renter is treated like a shomer sachar. Based on that, this Braisa is listing even shomrim that are learned from a drasha, and still it does not list a shomer chinam, which would seem to refute the second view of the machlokes!? **A:** We can say that the Braisa follows the view of **R' Meir**, who holds that a renter is like a shomer chinam, and by mentioning a shomer chinam the Braisa means to certainly include a shomer sachar as well. **A2:** We can also say that the Braisa follows **R' Yehuda** if we follow **Rabbah bar Avuha's** version of the machlokes, where **R' Yehuda** holds that a renter has the status of a shomer chinam.
- **R' Hamnuna** said, a borrower remains chayuv unless he borrows an item for a purpose, and the owner works for the shomer for that same purpose (e.g. he borrowed a cow for plowing and the owner helps with the plowing, or he hires a donkey to transport items and the owner helps the donkey along), and the owner works for him from the time of the borrowing until the time of the breaking or death.
  - We see that he holds that the pasuk's exemption of "ba'alav imo" applies to the entire borrowing process.
  - **Q: Rava** asked, the Braisa mentioned above says that if the owner was borrowed or rented along with the animal, even if the owner did work somewhere else (away from the animal) the borrower or renter is patur if the animal breaks or dies. We see that even when the owner is not doing the same work as the animal the shomer is patur!? **A:** The Braisa means that they are working on the same job – for example, the owner is up ahead softening the ground and the cow then follows him, dragging the plow.
    - **Q:** The next part of the Braisa says, if the owner was borrowed or rented after the animal, then even if they were working together, the shomer remains chayuv. By stressing in this case that they were working on the same job, it must mean that in the first case when it says that the owner was working "somewhere else" it must mean that he was working on a different job!? **A:** Both cases are where he was working on the same job. The first case is teaching that even if they are not physically close together, since they are working on the same job the shomer is patur. The second case teaches that even though they are physically together, since the owner was hired after the animal was borrowed or rented, the shomer is chayuv.
      - **Q:** There is no reason to think that there is more of a reason for the shomer to be patur just because the owner and the animal are working physically close to each other!? Therefore, it must be that the difference between the cases is that the first case is where the owner is doing a different job altogether. Therefore, **R' Hamnuna** can't be right that the owner and animal have to be working on the same job. **Q2:** With regard

to **R' Hamnuna's** other halacha (that the owner must be working for the shomer from the time of the borrowing until the time of the breaking or death), a Braisa says the pasuk says that if the owner is working for the shomer the shomer is patur. Why does the pasuk then have to say that if the owner is not working for him he is chayuv? This teaches that the owner has to be working for him at the time of the borrowing, but need not be working for him at the time of the breaking or death. This refutes **R' Hamnuna!**? **Q3:** Another Braisa says, the pasuk says that if the owner is not working for the shomer the shomer is chayuv, so why does the pasuk have to also say that if he is working for him he is patur? It is teaching that as long as the owner is working for the shomer at the moment of the borrowing, the shomer will be patur. This again refutes **R' Hamnuna!**? **TEYUFTA of R' Hamnuna.**

- **Abaye** holds like **R' Yoshiya** (that a “vuv” does not mean “or”) and therefore explains the pesukim according to **R' Yoshiya**, and **Rava** holds like **R' Yonason** (that a “vuv” can mean “and” or “or”) and therefore explains the pesukim according to him.
  - **Abaye** said, the pasuk says “ba'alav ein imo shalem yishalem”, which suggests that he must pay only when the owner did not work with him at the time of the borrowing or the time of the damage. However, if he was working for him at either of those times he would be patur. However, the other pasuk says “ihm ba'alav imo lo yishalem”, which suggests that if the owner worked for him at both periods of time he would be patur, but if he only worked for him at **one** of those periods he would be chayuv. The way to understand this seeming contradiction is that if the owner worked for him at the time of the borrowing, he is patur even if he wasn't working for him at the time of the damage. However, if he didn't work for him at the time of the borrowing, only at the time of the damage, he would be chayuv.
  - **Rava** said, the pasuk of “ihm ba'alav imo lo yishalem” suggests that if he is working for him at both time periods, *and* even if he is only working for him at only one of those two times, he will be patur. The other pasuk of “ba'alav ein imo shalem yishalem” suggests that he is chayuv if the owner did not work for him at both of the two periods, and even if he only worked for him at one of the two time periods. To answer these contradictory understandings we must say that if the owner worked for him at the time of the borrowing, he is patur even if he wasn't working for him at the time of the damage. However, if he didn't work for him at the time of the borrowing, only at the time of the damage, he would be chayuv.
  - **Q:** Maybe we should reverse our understanding and say that if he is working for him at the time of the damage he is patur, but working for him at the time of the borrowing does not make him patur? **A:** It is more logical to say that the time of borrowing is more essential, because that is when he accepts responsibility for the animal.
    - **Q:** It would seem to be more logical that the time of the damage is more essential, because that is when he actually becomes chayuv for the oneis!? **A:** If not for the time of borrowing, which is when he accepts responsibility, he would not have become chayuv for any damage altogether.
    - **Q:** We can also say that if not for the damage, the act of borrowing would not have made him chayuv in anything!? **A:** Still, the time of borrowing is more important with regard to making him patur, because it is at that time that he becomes chayuv to provide food for the animal.
    - **R' Ashi** said, we learn that the time of borrowing is the essential time based on the pasuk. The pasuk says “v'chi yishal ish mei'ihm rei'eihu” (if a person borrows from his friend), but does not borrow his friend along with it, then “shalem yishalem”. Now, this pasuk is talking about the time of borrowing, and we see that that is the determinant time for when the owner must be working for him to make the shomer patur.
      - **Q:** Based on this, what are the other pesukim cited previously needed for? **A:** If not for those other pesukim we would say the “mei'ihm rei'eihu” is just a figure of speech used by the pasuk, and is not meant to be darshened.