



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

### Bava Metzia Daf Tzaddik Ches

- The Gemara just explained how our Mishna's cases conform with **Rava's** example. The Gemara explained that the earlier cases of the Mishna involve 2 cows and the later case involves 3 cows.
  - The Gemara says, according to **Rami bar Chama**, who taught a Braisa that says, in order for the 4 shomrim to become chayuv to make an oath, they must deny part of the claim and admit to part of the claim, we will have to explain the cases of our Mishna as dealing with 3 cows in the first two cases, and 4 cows in the last case, as follows. The owner says he gave three cows – to be used half the day as a loan and half the day as a rental, or one day as a loan and the next day as a rental, and says that all three cows died. The owner claims that they all died during the time of borrowing. The borrower denies the entire claim with regard to one cow. With regard to the other two he responds that one did die during the time for borrowing, but I don't know during which period the other cow died. Since he can't swear regarding the second cow, he must pay. The last case of the Mishna is where the owner says he gave 4 cows – 3 as a loan and one as a rental, and three of the cows died. The owner says the 3 borrowed cows died. The borrower denies the entire claim with regard to one of the cows. With regard to the others he says that one of the borrowed cows died, and with regard to the other cow he says, "I don't know if it was the borrowed or the rented". Since he can't swear regarding the second cow, he must pay.

ZEH OMER SHE'ULAH V'ZEH OMER SECHURAH...

- **Q:** Why does he swear in this case? He is not admitting to anything that was claimed against him, and what he admits was never claimed!? **A:** **Ulla** said, he is made to swear through a gilgul shavuah. The owner demands that the shomer swear that the animal died naturally. Once he has to swear for that, he can also be made to swear that it was the rented cow that died.

ZEH OMER EINI YODEYA V'ZEH OMER...

- This follows **Sumchos**, who says that when there is doubt regarding ownership of money, it is divided (the **Rabanan** argue and say "hamotzi meichaveio alav haraya").
- **Q: R' Abba bar Mamal** asked, if someone borrowed an animal while the owner was working for him, and before giving the animal back he rented it from the owner, but at that time the owner was not working for him, what is the halacha? Do we say that the rental is the start of something new and therefore has no connection to the borrowing, or do we say that since borrowing and renting are both chayuv for loss and theft, the renting is considered a continuation of the borrowing? **Q2:** If you say that the renting is a continuation of the borrowing, what would be the halacha if he first rented the cow while the owner was working for him, and before returning it he borrowed it from the owner? Will he still be patur as one who borrows with the owner working for him? Do we say that since the borrowing makes him chayuv in more things than he was chayuv under the rental, it cannot connect to the rental, or do we say that since in some aspects they are the same (certain of the responsibilities continue) it is a continuation of the rental period? **Q3:** If you say that in this last case the borrowing is not considered a continuation of the renting, what would be the halacha if one borrowed an animal while the owner was working for him, and before giving the animal back he rented it from the owner, but at that time the owner was not working for him, and then before returning the animal from the rental, he went ahead and borrowed it from him again? Do we say it is like part of the original borrowing, or do we say that the rental period separates the two? **Q4:** What would be the halacha if he first rented the cow while the owner was working for him, and before returning it he borrowed it from the owner, and then before returning it from the borrowing period he rented it again? Do we say that it is like part of the original rental, or do we say that the borrowing period separates the two? **A:** The Gemara says **TEIKU**.

## MISHNA

- If one borrowed a cow and the owner sent it to him with his son or his slave or his shaliach, or with the son, slave, or shaliach of the borrower, and the cow died on its own in transit, the borrower is patur. However, if the borrower told the owner to send it with his son, slave, or shaliach, or with the son, slave, or shaliach of the owner, or if the owner told the borrower that he will be sending it with one of these people, and the borrower says “send it”, and he sends it and it dies on the way, the borrower would be chayuv.
- The same law applies when the borrower returns the cow to the owner as well (if he sends it back with someone else, he remains chayuv until it reaches the owner, unless the owner asked that it be returned by sending with those people, or at least agreed that it should be sent with them).