

OVERVIEW of the Daf

1) Partial payment (cont.)

Another question related to the status of a sale where only partial payment was collected is presented and left unresolved.

2) Hiring replacement workers

The Mishnah taught that when hiring a replacement worker for one who quit causing his employer a potential loss, the employer may hire a replacement worker. R' Nachman explains that the limit for payment of the second worker is up the amount of the wages of the first worker.

This ruling is unsuccessfully challenged.

3) **MISHNAH:** The Mishnah discusses the consequences of using rented property in a way that was not stipulated.

4) Clarifying the Mishnah

The Gemara inquires why the first section of the Mishnah does not distinguish between the mountain and the valley whereas the second section of the Mishnah makes that distinction.

D'vei R' Yannai suggests that the first section of the Mishnah addresses a case where the animal dies from the air and both air on a mountain and air in a valley have the capacity to kill a person.

Three additional explanations are offered to explain the Mishnah.

The last explanation, that of R' Chiya bar Abba in the name of R' Yochanan, asserted that the Mishnah follows R' Meir who maintains that someone who deviates from the owner's instructions is considered a robber.

The Gemara succeeds on its third attempt to identify which ruling of R' Meir indicates that he rules that one who deviates from the owner's instructions is considered a robber.

5) The meaning of the term הבריקה

Two interpretations of the term הבריקה are presented.

A related incident is recorded.

6) A rented donkey that is taken into the service of the king

Rav maintains that the only time the owner does not have

(Continued on page 2)

Distinctive INSIGHT

The negligence of the guard

ההוא דאמר אבוקת במילתא דמלכא, אמרי ליה במאי בטלי כסף או בטלי דהב, איכא דאמרי בטלי כסף אמר וקטלוה, איכא דאמרי בטלי דהב ושבוקה

Rava defined the term "הבריקה" in the Mishnah by explaining that it refers to a condition of "אבוקת," where the animal developed a decay in its foot due to worms.

The Gemara proceeds to tell the story of someone who informed the officers of the king that he noticed some goods of the king had begun to decay. They asked him to identify exactly whether the problem was with the טלי כסף or the טלי דהב. According to one version, the narrative in the Gemara ends by reporting that the man said that the decay was in the טלי כסף and they killed him, while according to the other version he told them that the decay was in the טלי דהב, and they left him alone.

The Rishonim offer varying explanations to understand what this story is doing in the Gemara and what it actually means.

Rashi explains that the man reported that moths had eaten away at the fabric of the king. The officers asked whether the decay was in the lighter colored fabric (linen) or in the darker colored fabric (red-dyed wool). When he told them that the linen was decayed, they killed him. Some explain that this man was killed for lying, as moths do not ruin linen. Others explain that he was the one assigned to protect and guard the king's fabrics, and he was killed for being negligent for allowing moths to ruin a fabric that could have easily been safeguarded.

The חידושים המיוחסים לריטב"א explains that silver and gold were woven into the silk garments of the king. The man reported that rust appeared on the garments, or that spots were appearing on the fabric. According to the first version, because this man was responsible to guard the king's clothes, when he told them that it was the silver which was tarnishing, he was put to death, as the fabric with silver required extra care to protect it, and the presence of tarnish indicated that he was not doing his job. If the report was that the gold was causing spots it is reasonable that the guard was not punished, as it is highly irregular for gold to tarnish in this manner, and it was not his fault that this happened.

Tosafos has a text which reads that the damage took place in the מולתא of the king, meaning his donkeys. מגן גבורים explains that white donkeys are very strong, and allowing worms to infect them indicated negligence on the part of the guard, for which he was put to death. ■

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HALACHAH Highlight

Paying additional rent when a rented animal is taken for the king's service

השוכר את החמור וכו' או שנעשית אנגריא וכו'

If one rents a donkey... or it is taken into the service of the king

Ritva¹ in the name of Ramban limits the application of the Mishnah's ruling regarding a rented animal that was taken into the service of the king. The Mishnah rules that the owner is not responsible to provide a replacement animal for the renter and he could say *הרי שלך לפניך* – behold, what is yours is before you. Ritva writes that this ruling applies only when the rental agreement is structured in a way that the renter is paying for the donkey to perform a certain job (קבלנות) rather than if the agreement was for the renter to pay a fixed amount for each day that the animal is rented. When the agreement is that the renter pays a fixed amount for a particular job to be performed there is no loss if the project is delayed as long as it will eventually be completed. If, however, the renter is obligated to pay for each day he has the animal the renter is not obligated to pay the rental fee for those days the animal is in the possession of the king.

Nesivos Hamishpat² disagrees with this distinction and asserts that under all circumstances the owner can say to the renter *הרי שלך לפניך* and if as a result of the king's taking the donkey the renter has to rent the animal for additional days than he initially anticipated he would be obligated to pay for all those additional days. He cites as precedent for this ruling a

REVIEW and Remember

1. How much money is an employer authorized to spend if a worker quits a job that is time-sensitive?
2. When is a donkey owner obligated to provide a replacement animal if something happens to the animal he rented to a friend?
3. Explain מגבת פורים לפורים.
4. What is the meaning of the term הבריקה?

related ruling in Shulchan Aruch. Shulchan Aruch³ discusses the case of a renter who rented an animal for two days to travel to a particular place and return and on his return the river flooded and he could not return within two days as he anticipated. Shulchan Aruch rules that the renter has to pay the rental fee for all the days the animal is delayed. Aruch Hashulchan⁴ rejects the parallel between the two cases and notes that it is illogical that the renter should have to pay more than he originally agreed to pay. His final ruling is that the renter would not be obligated to pay the rental fee for additional days that are the result of the animal's being sick or something similar. ■

1. ריטב"א ד"ה לא.
2. נתיבות המשפט סי' ש"י סק"ג.
3. שו"ע ח"מ סי' ש"י סעי' ג'.
4. ערוה"ש שם סעי' י"ד. ■

STORIES Off the Daf

The greatness of Shabbos and festivals

"אלא הא רב מאיר במגבית פורים לפורים..."

The gemara tells us that one who gives a talmid chacham wine to drink is likened to one who poured libations on the altar.

A certain wealthy man took this very seriously and decided to send wine every Friday to a talmid chacham to use for kiddush. Although the talmid chacham appreciated the extra support, he really wanted to pay for the kiddush wine from his own pocket and use the donated wine during the week. But he wondered if this was permitted, since we find on Bava Metzia 78 a dispute regarding if one may use money donated for use on Purim for a different expense. Although the Rosh and the Rif

both rule that a poor person may use money designated for Purim for any use, the Tur rules that he may not.

When he consulted with the Chavas Ya'ar, zt"l, he ruled that he was required to use the wine for kiddush. "The matter seems to follow the opinion of the Tur. In addition, the Sefer Chassidim says explicitly that one who received a gift of food designated for Shabbos must not use it for the weekdays. In this case, the Sefer Chassidim is not teaching about a middas chassidus, since this is actually the law."¹

The Gilyonei HaShas learns a very inspirational lesson from our Gemara. "The Matan Secharan says that sinning on Shabbos is much more serious because of the holiness of Shabbos. We see from our Gemara that the same is true regarding mitzvos. There is no comparison between a mitzvah done on a holier time like Purim

or Shabbos and one done during the week!"

The Ben Ish Chai, zt"l, similarly writes that one hour of learning during Shabbos is likened to a thousand hours learned during the week!² ■

1. שו"ת חוות יאיר, סי' רל"ב
2. בן איש חי, שנה ב', פרשת שמות ■

(Overview...continued from page 1)

to provide a replacement donkey is when the donkey will be returned but if it will not be returned the owner must provide a replacement animal, whereas Shmuel maintains that the critical issue is whether the animal was taken in the direction it was walking.

Shmuel's position is challenged from a Baraisa.

Two possible resolutions are presented. ■