

OVERVIEW of the Daf

1) Planter (cont.)

Another unsuccessful attempt is made to refute Abaye's position that withered vines are categorized as produce rather than principal.

2) Land held as security for a loan

R' Yehudah and R' Kahana disagree who is believed when there is a disagreement regarding how long the lender was to hold the borrower's land as security.

The Gemara rules in accordance with R' Kahana who ruled that if the lender already ate the produce he does not have to return it to the borrower.

The reason is explained why the principle that the land remains in the possession of its owner does not apply.

The Gemara presents a dispute concerning a case where the lender and borrower disagree about the duration of the security agreement, and the contract is lost.

R' Yehudah asserted that the lender is believed but others disagree.

R' Yehudah's position is that the lender could successfully claim that he purchased the land. This premise is unsuccessfully challenged.

3) A leased field

R' Yehudah and R' Nachman disagree who is believed when a landowner and his sharecropper disagree about how much produce the sharecropper is to take from the field.

It is suggested that R' Yehudah and R' Nachman do not disagree, but this suggestion is rejected.

4) Land improvements

Ravina suggested that when there is a disagreement between a lender and the orphans of the borrower who made improvements to the land the burden of proof rests upon the lender.

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REVIEW and Remember

1. When does R' Nachman ruling that land is in the possession of the owner apply?

2. Who is believed when a landowner and sharecropper disagree about the terms of their agreement?

3. When do we impose the burden of proof on orphans?

4. When is the correct time to pay a day worker?

Today's Daf Digest is dedicated by Dr. & Mrs. Phillip Zaret
 in memory of their father
 Mr. Seymour Socol
 ר' זיסל בן ר' אברהם אבא ע"ה

Distinctive INSIGHT

Who was "that old man"?

אמר ליה ההוא סבא וכו'

The Gemara presented a case in which a doubt arose regarding whether the value of improvements made to a land was able to be collected from orphans to pay a loan of their father. R' Chanina thought the orphans could keep the value of the improvements, as they were in possession of the land as is.

"A certain old man" (ההוא סבא) informed R' Chanina that R' Yochanan had ruled the opposite, and that the orphans had to forfeit the improvements, unless they could prove that they were the ones who made these improvements. Who was this old man?

Tosafos in Chullin (6a) brings an opinion that wherever we find ההוא סבא, it refers to Eliyahu HaNavi. Tosafos adds that in one place, in Shabbos 34a, ההוא סבא cannot be Eliyahu HaNavi. There, "this old man" met R' Shimon b. Yochai who had just finished clearing Tevariya from graves. "A certain old man" challenged R' Shimon b. Yochai's actions in a disrespectful manner, and as a result of a confrontation, the old man died.

Sefer Kesubos (62b) analyzes an appearance of ההוא סבא in Kesubos (62b). There, R' Akiva was about to return to his family after learning for twelve years. He overheard "a certain old man" telling his wife, "How can you tolerate being like a widow while your husband is still alive?" When she answered, "If it was up to me, he would go and learn another twelve years." While it is true that as a result of hearing his wife's devotion, R' Akiva turned around and went to learn another twelve years, it seems unreasonable to say that Eliyahu HaNavi would speak about R' Akiva's learning in such a critical manner. We might suggest that this was Eliyahu HaNavi speaking, and that he was testing the wife of R' Akiva in order to increase her reward. Yet, this is not possible, because the Gemara in Nedarim (50a) relates what is apparently the same story, and it relates that R' Akiva heard "a certain evil person" telling his wife that her father was justified in taking an oath not to support R' Akiva, who had seemingly abandoned her. We see, therefore, that "a certain old man" in this story cannot be Eliyahu HaNavi.

פחד יצחק answers that it could be that it was Eliyahu who was testing to see the response of Rachel, the wife of R' Akiva, but the only thing he spoke was about R' Akiva being away, and a different neighbor who was evil overheard him and added that it was good that the father disowned R' Akiva. ■

Today's Daf Digest is dedicated
 By Mr. and Mrs. Baruch and Dorothy Starr Aplebaum
 In memory of her father
 ר' אברהם אריה בן ר' שמואל ע"ה

This week's Daf Digest is dedicated
 By Mr. & Mrs. Dennis Ruben in memory of their parents
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HALACHAH Highlight

Paying an employee with a check

שכיר יום גובה כל הלילה

A day worker collects his wages all night

Poskim discuss whether paying an employee with a check fulfills the mitzvah of paying a worker on time – **ביומו תתן שכרו**. Sefer Pischei Choshen¹ maintains that if the check is dated with the date that it is given to the employee and the bank is still open so that the employee has the option to go to the bank and cash the check it is considered a proper payment. The rationale he gives for this position is that even if we were to assume that a check is not considered money, nevertheless, halacha does not require an employer to pay his employee with something that is considered money. The only requirement is for the employer to make a timely “payment.” Since nowadays people consider a check dated that day to be a “payment” the mitzvah is fulfilled. Sefer Teshuvos V’hanhagos² writes that as long as the check is dated for that day the mitzvah of paying an employee on time is fulfilled even if the bank has closed for the day or it is a day that the bank is not open. Fulfillment of the mitzvah does not depend upon the employee’s ability to cash the check; it depends upon giving something that is considered payment. Therefore, since legally a check fulfills an employer’s responsibility to pay his worker it is also considered fulfillment of the mitzvah.

Sefer Peulas Sachir³ quotes Rav Elyashiv as adopting a more stringent position. According to R’ Elyashiv a check does not fulfill the Torah’s requirement to pay a worker on time since it is not cash even if the check is dated for that day and the bank is still open. The only exception to this rule would be if the employee agreed to accept the check as payment, but the employer cannot force an employee to accept a check.

STORIES Off the Daf

Timely payment

”וביומו תתן שכרו...”

Today’s daf discusses the mitzvah of paying a worker on the very day that he completes his task.

Life was very different a hundred years ago. People would often have no choice but to travel in horse and wagon under the worst conditions. Many roads were not really travel-worthy and every bump was felt by the passengers with a wild jolt of the carriage.

One freezing winter day, the Chofetz Chaim, zt”l, needed to travel to other towns to raise money for his yeshiva in Ra-

din. Gershon, the trusty wagon driver from Radin, worked very hard to keep them on the roads and get his passengers to their destinations as quickly as possible.

When the Chofetz Chaim and his companion had just about arrived at the distant train station, the Chofetz Chaim suddenly recalled that he had forgotten to pay the tailor in Radin for some work that had been picked up that very day. After a short moment to collect his thoughts, the Chofetz Chaim requested that Gershon turn back to Radin.

He explained, “I must fulfill the Torah commandment of **ביומו תתן שכרו**—paying the worker without delay.”

His companion pointed out that it was a pity to travel all the way back now that they had gone so far and suggested that the

(Overview...continued from page 1)

A dissenting opinion in the name of R’ Yochanan is cited.

Abaye cites a Mishnah in support of R’ Yochanan.

In the previous incident the orphans produced proof that they made improvements and R’ Chanina thought they should receive land.

R’ Chanina’s understanding is rejected based on a teaching of Shmuel.

A contradiction between two statements of Shmuel is noted and resolved.

This resolution is unsuccessfully challenged.

5) MISHNAH: The Mishnah begins by laying down the parameters of when shemittah is included in the lease. The Mishnah then switches to the topic of paying a worker on time.

6) Delaying payment of an employee

A Baraisa identifies the sources for the necessity to pay a worker on time.

The Gemara defends the Baraisa’s understanding of the verse.

Another Baraisa is cited that elaborates on this prohibition.

Rav identifies the prohibition an employer violates after he misses the first obligation to pay his worker on time.

R’ Yosef cites a verse that supports Rav’s assertion.

Another Baraisa on this topic is cited. ■

Sefer Beirur Halacha⁴ suggests that if the employer makes a deposit into the bank account of his employee rather than giving him cash or a check it will fulfill the mitzvah according to all opinions. The only limitation he puts on this is if the deposit is made on a day the bank is not open since he cannot access the money. ■

1. ספר פתחי חושן הלי שכירות פ"ט הע"י ל"ו.

2. שו"ת תשובות והנהגות ח"ג ס"י ת"ע.

3. ספר פעולת שכיר פ"ג.

4. בירור הלכה ח"ו עמ' תרנ"א. ■

Chofetz Chaim entrust the money with Gershon the driver. “If you instruct him to pay today, surely he will do so and you can make the train and also pay the tailor today,” he argued.

But the Chofetz Chaim absolutely rejected this suggestion. “Regarding Torah obligations, we do not rely on a messenger,” he said, and the driver turned back at the Chofetz Chaim’s expense.¹

On a different occasion, when the Chofetz Chaim returned home from travelling he paid the driver and entered his house in very happy spirits. He walked over to the table, rapped on it hard and announced, “Boruch Hashem, today I merited to fulfill the mitzvah of **ביומו תתן שכרו**”² ■

1. הח"ח ח"ו ופעלו, ח"ג, ע"י תתצ"א

2. מאיר עיני ישראל, ח"ב ■