

4 Sivan 5773  
May 13, 2013



Eiruvin Daf 66

Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

Daf Notes is currently being dedicated to the neshamah of

**Tzvi Gershon Ben Yoel (Harvey Felsen) o”h**

May the studying of the Daf Notes be a zechus for his neshamah and may his soul find peace in Gan Eden and be bound up in the Bond of life

**If a Jew and a gentile reside in the outer chatzer and one Jew resides in the inner chatzer, the gentile restricts the Jew from carrying in the outer chatzer.**

Rabbi Eliezer inquired of Rav: If a Jew and a gentile reside in the outer *chatzer* (courtyard) and an individual Jew resides in the inner *chatzer*, what is the status of the outer *chatzer*. [We have learned that the residence of a gentile is not considered a residence, yet the Chachamim did not want a Jew residing in the same *chatzer* as a gentile. The only way for a Jew to carry in a *chatzer* where a gentile resides is if the Jew leases the rights of the gentile in the *chatzer*. Rabbi Eliezer ben Yaakov maintains that since a Jew is afraid of residing in the same *chatzer* as a gentile, out of fear that the gentile will harm him, the Chachamim did not enact a decree in such a case.] In the previous case where the gentile resided in the inner *chatzer*, we can say that the Jew in the inner *chatzer* is not concerned that the gentile will murder him, because the gentile is fearful that the Jew from the outer *chatzer* will query him as to the whereabouts of the Jew in the inner *chatzer*. Even Rabbi Eliezer ben Yaakov would agree that that the gentile restricts the inner *chatzer* from carrying. When the gentile resides in the outer *chatzer*, however, he would not be fearful of harming his Jewish neighbor, as he can say that the Jew left the *chatzer*, and it is possible that the Jew in the inner *chatzer* would not have seen him leave. Thus, Rabbi Eliezer ben Yaakov

would maintain that the gentile does not restrict the *chatzer*, or perhaps the gentile is still afraid that the Jew from the inner *chatzer* will see the gentile harming the Jew in the outer *chatzer*.

Rav answered that just like the gentile restricts from carrying in a case where the gentile resides in the inner *chatzer*, the gentile will also restrict from carrying when he resides in the outer *chatzer*. (65b)

**Rish Lakish and students of Rabbi Chanina stayed at an inn on Shabbos and leased the rights from the gentile landlord.**

Rish Lakish and the students of Rabbi Chanina went to an inn for Shabbos. They joined in an *eiruv* that allowed them to carry from their rooms into the *chatzer*. They wanted to lease the rights of a gentile who had leased a house in the *chatzer*. The tenant was not there but the landlord was there. When the landlord cannot ask the tenant to leave before the lease expires, the landlord is not in control of the house, and a Jew cannot lease the rights in the *chatzer* from the landlord.

The question would be in a case where the landlord can evict the tenant. Perhaps because the landlord can evict the tenant, a Jew can lease the rights from the landlord, or perhaps since the tenant has not yet been evicted, one cannot lease his rights in the *chatzer*.

Rish Lakish said that they should lease the rights from the landlord, and Rabbi Afeis told them later that they were correct in leasing the rights from the landlord. (65b)

**There is a dispute regarding leasing rights from a gentile on Shabbos.**

Rabbi Chanina bar Yosef and Rabbi Chiya bar Abba and Rabbi Assi stayed at an inn on Shabbos where there were only Jewish guests. The gentile innkeeper arrived on Shabbos, and there was a question whether they would be allowed to lease the rights of the gentile, and then all the Jews would have to relinquish their rights so that at least one guest could carry in the *chatzer*.

The dilemma was if leasing is akin to joining in an *eiruv*. One must join in an *eiruv* before Shabbos, and so too one must else the rights from the gentile, before Shabbos, or perhaps leasing is akin to relinquishing rights, which can be performed even on Shabbos.

Rabbi Chanina bar Yosef wanted to relinquish their rights, and Rav Assi said they should relinquish their rights on Shabbos. Rabbi Chiya bar Abba said they should rely on the lenient opinion of Rabbi Chanina bar Yosef and lease. When they later came to Rabbi Yochanan, he told them that they were correct in leasing the rights of the gentile on Shabbos. (65b - 66a)

**There are similarities between joining in an *eiruv* and the laws of leasing the rights of a gentile.**

Rabbi Yochanan said that the laws of leasing are akin to the laws of joining in an *eiruv*. This does not refer to leasing on Friday afternoon, because Rabbi

Yochanan permits one to lease from a gentile even on Shabbos. Rather, the similarities are as follows: Just like one can join in an *eiruv* by contributing even less than the value of a *perutah*, one can lease from the gentile his rights even less than the value of a *perutah*. Furthermore, just like if a gentile resides in a *chatzer*, his Jewish employee or farmhand can join in an *eiruv*, so too the gentile's farmhand or employee can lease out the rights in the *chatzer*. Just like when five people reside in one *chatzer* one can act on behalf of all of them with regard to joining in an *eiruv*, so too regarding leasing, when five people reside in one *chatzer*, one can lease the rights of the gentile in the *chatzer* for all of them. (66a)

**Shmuel made three statements regarding relinquishing rights in a *chatzer*.**

Shmuel stated that wherever residents of a *chatzer* restrict the *chatzer* in carrying, if they do not join in an *eiruv* and they could have joined in an *eiruv*, they can relinquish their rights of passage in the *chatzer* to one resident. This individual cannot carry from the other resident's houses, as they did not relinquish rights in their houses, but he can carry from his house into the *chatzer*.

Shmuel also taught that if the residents of the *chatzer* could join in an *eiruv* but they would not restrict by not joining in an *eiruv*, or if they would restrict but they could not join in an *eiruv*, in both cases they cannot relinquish their rights. (66a)

**One cannot relinquish rights from one *chatzer* to another when the two *chatzeiros* are next to each other and there is an entranceway between them.**

Rav Sheishes explained the statement of Shmuel that wherever residents of a *chatzer* restrict the



*chatzer* in carrying, if they do not join in an *eiruv* and they could have joined in an *eiruv*, they can relinquish their rights of passage in the *chatzer* to one resident. This refers to a case where the two *chatzeiros* are one behind the other and the residents of the inner *chatzer* must traverse the outer *chatzer* in order to reach the *mavoi* or public domain.

Regarding the second statement of Shmuel that if the residents of the *chatzer* could join in an *eiruv* but they would not restrict by not joining in an *eiruv*, they cannot relinquish their rights, this refers to a case where the two *chatzeiros* are next to each other, and there is an entranceway between them. Even without joining in an *eiruv*, each *chatzer* remains exclusive in that its respective residents can carry within that particular *chatzer*. If they needed to carry from one *chatzer* to the other, they cannot relinquish their rights to techs other, because relinquishing their rights is only allowed if otherwise the residents will be restricted from carrying.

Regarding the case where they would restrict but they could not join in an *eiruv*, this comes to include the case of a gentile who resides in the *chatzer* with two Jews. The two Jews restrict each other from carrying, but the gentile prevents them from joining in an *eiruv*. If the gentile had arrived prior to Shabbos, he could have leased his rights before Shabbos, or even if he refused to lease his rights, the *chatzer* is considered to have the option of making an *eiruv*, because the potential to lease the rights exists. Shmuel, however, was referring to a case where the gentile arrived on Shabbos and the rule is that when they restrict but could not join in an *eiruv*, they cannot relinquish their rights. (66a - 66b)

**There is a dispute regarding relinquishing rights from one *chatzer* to another and regarding relinquishing rights in a ruin.**

Shmuel maintains that there is no relinquishment of rights from one *chatzer* to another and there is no relinquishment of rights in a ruin. Rabbi Yochanan disagrees and maintains that there is relinquishment of rights from one *chatzer* to another *chatzer* and there is relinquishment of rights in a ruin.

The *Gemora* notes that we needed to state their arguments in both cases, because one may have thought that Shmuel only maintains that rights cannot be relinquished from one *chatzer* to another because the residents of each *chatzer* do not require the use of the other *chatzer*, so the Chachamim did not allow relinquishing of rights from one *chatzer* to another. A ruin, however, which functions for both houses that can access it, I would think that Shmuel agrees with Rabbi Yochanan and they can relinquish rights. Conversely, I would think that Rabbi Yochanan only said that rights can be relinquished in a ruin because the ruin is a benefit to both houses, but regarding two *chatzeiros*, perhaps Rabbi Yochanan would agree with Shmuel that one *chatzer* cannot relinquish rights to another *chatzer*. Therefore it was necessary to state both cases. (66b)

**Rava maintains that even when two *chatzeiros* are one behind the other, sometimes they may relinquish their rights and sometimes they may not relinquish their rights.**

Abaye said that when Shmuel stated that there is no relinquishment of rights from one *chatzer* to another, this was stated only with regard to two *chatzeiros* that are next to each other and there is

an entranceway between them. If the two *chatzeiros* are behind each other, however, since the residents of the inner *chatzer* restrict the rights of the outer *chatzer*, they can relinquish their rights of passage to allow carrying.

Rava disagrees with Abaye and Rava maintains that even when the *chatzeiros* are behind each other, sometimes they can relinquish their rights and sometimes they cannot relinquish their rights. (66b)

**If the joint *eiruv* was placed in the outer *chatzer* and someone from either the inner or outer *chatzer* forgot to join in the *eiruv*, they are both restricted from carrying.**

Rava mentions four cases where it is possible to relinquish rights. The first and second cases are when they placed an *eiruv* in a house of the outer *chatzer*, and someone from either the inner or outer *chatzer* forgot to join the *eiruv*. In this case both *chatzeiros* are restricted, because the residents of the inner *chatzer* cannot relinquish their rights to other members of the inner *chatzer*, because the *eiruv* was placed in the outer *chatzer*, and if the inner *chatzer* would disassociate them from the outer *chatzer*, the inner *chatzer* would be left without an *eiruv*. This would leave the inner *chatzer* restricted. If the resident of the inner *chatzer* would relinquish his rights to both *chatzeiros*, this would not work according to Shmuel who maintains that there is no relinquishing of rights from one *chatzer* to another. If a resident of the outer *chatzer* forgot to join in the *eiruv*, it is ineffective to relinquish his rights to the other residents of the outer *chatzer*, because the inner *chatzer* restricts them. He cannot relinquish his rights to both *chatzeiros*, because

Shmuel taught that there is no relinquishing of rights from one *chatzer* to another.

The third case mentioned by Rava is if the *eiruv* was placed in a house in the inner *chatzer*, and a resident of the inner *chatzer* forgot to join in the *eiruv*, both *chatzeiros* are restricted, even in if the one who forgot to join in the *eiruv* relinquishes his rights. If he relinquishes his rights to the other residents of the inner *chatzer*, the outer *chatzer* still restricts them, because the two *chatzeiros* are joined together by one *eiruv* and they are considered to be one *chatzer*. The resident of the inner *chatzer* who forgot to make an *eiruv* relinquishes his rights to the residents of the inner *eiruv*, but the residents of the outer *chatzer* restrict the inner *chatzer*. If he will relinquish his rights to the residents of the outer *chatzer*, Shmuel has already taught that there is no relinquishing of rights from one *chatzer* to another. (66b)

**If a resident of the outer *chatzer* forgot to join in the *eiruv*, he cannot relinquish rights in the *chatzer* to either the inner *chatzer* or to the outer *chatzer*.**

The fourth case mentioned by Rava is when a resident of the outer *chatzer* forgot to join in the *eiruv*; if he relinquishes his rights, the inner *chatzer* will be permitted, but the outer *chatzer* will still be restricted. The inner *chatzer* is permitted because the residents of the inner *chatzer* can tell the residents of the outer *chatzer* that they only agreed to be joined in an *eiruv* if it was to their benefit. Now that a resident of the outer *chatzer* forgot to join in the *eiruv* and the merging with the outer *chatzer* is to the detriment of the inner *chatzer*, the residents of the outer *chatzer* can relinquish their rights to the residents of the inner *chatzer*. This follows the opinion of Rabbi Akiva

later, (75b) whereas according to the Chachamim, there is no requirement to relinquish rights. Rather, the residents of the inner *chatzer* can dissolve the merger of their *eiruv* because it impinges on the use of their own *chatzer*. (66b - 67a)

## INSIGHTS TO THE DAF

### *Making an Eiruv on Shabbos*

The *Gemora* states that Rabbi Yochanan ruled that a Jew could lease the rights of a gentile on Shabbos. The Nehardeans found an apparent contradiction to Rabbi Yochanan's ruling, where Rabbi Yochanan said that the rules of leasing are similar to the rules of joining in an *eiruv*. The Nehardeans assumed that the similarity referred to is that just like one must join in an *eiruv* prior to Shabbos, so too one must lease the rights of a gentile prior to Shabbos.

The *Gemora* answered that Rabbi Yochanan's comparing the rules of leasing to the rules of joining in an *eiruv* was said with regard to three leniencies.

Why must one make an *eiruv* prior to Shabbos? We must examine the function of an *eiruvei chatzeiros*. Is an *eiruvei chatzeiros* an acquisition, where all the residents of the *chatzer* relinquish their rights in the *chatzer* and they are all considered to be residing in one house? If *eiruvei chatzeiros* is akin to making an acquisition, one is forbidden to make an acquisition on Shabbos.

Tosfos, however, writes that one can lease the rights of a gentile on Shabbos as this is not categorized as a business transaction. Leasing the rights of a gentile is only to permit carrying in the *chatzer*, and certainly the

function of an *eiruvei chatzeiros* is to permit carrying in a *chatzer*. Why, then, would it be forbidden to make an *eiruvei chatzeiros* on Shabbos if there is no transaction taking place?

Perhaps we can say that regarding leasing the rights from a gentile, the residence of a gentile is not considered a residence, and leasing his rights is just to make clear what is occurring. With regard to *eiruvei chatzeiros*, however, if there is no *eiruv*, then the residents restrict each other from carrying, and this would fall under the category of a transaction.

It is also possible to say that we have learned that one acquires residence at the onset of Shabbos. The same idea could be applied to *eiruvei chatzeiros*, as one cannot make an *eiruv* on Shabbos since the time for the *eiruv* to begin functioning is at the onset of Shabbos.

This rationale is difficult, however, because if one can lease the rights of a gentile on Shabbos, and a Jew can even relinquish his rights on Shabbos, then apparently not everything begins at the onset of Shabbos.

In Teshuvos Chacham Tzvi<sup>1</sup> and in other works of the Acharonim who follow the opinion of Rabbeinu Yehonasan, the prohibition of making an *eiruvei chatzeiros* on Shabbos is because it is akin to an acquisition.

Rashi<sup>2</sup> writes that one cannot make an *eiruvei chatzeiros* when Yom Tov falls on Friday because it appears that he is rectifying something, which is forbidden on Yom Tov.

<sup>1</sup> Siman 6

<sup>2</sup> Beitzah 16b s.v. lo Eruvei chatzeiros

