



Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

Daf Notes is currently being dedicated to the neshamot of

Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h

Tzvi Gershon ben Yoel (Harvey Felsen) o”h

May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

Mishna

If one hired craftsmen and they deceived each other, they have complaints only against each other.

If one hired a donkey driver or a wagon driver to bring planed wood (for a bridal canopy), or to bring flutes for a bride (to play by the wedding), or for a dead person (to eulogize and lament for him), or he hired workers to take out his flax from its steeping waters (in order that the flax should not rot), or anything which will bring about a loss (if not done), and they (the drivers) retracted, the *halachah* is that if it were a place where there is nobody else to hire, he (the employer) may hire other workers (for a higher wage) to replace them (and the original workers must pay the difference), or he may trick them (which will be explained in the Gemora) into working for him.

If one hired craftsmen and they retracted (without completing the job), they have the lower hand (with respect to the manner in which we calculate their payment for a half-finished job; they can simply be given wages for half the job based on a prorated system, or we can see what the employer would be required to pay someone else to complete the job and this amount should be deducted from their full wages, and that is what we pay them; the difference between these two methods would be as follows: if the wages of workers increased, and the employer must pay more than the sum upon which he had agreed with the craftsmen for the completion of the work, the employer detracts the amount which he would need to add to the others in order to complete the work from

the payment for the work which the original craftsmen had done, for calculating this way would be to their disadvantage; if, on the other hand, the wages of workers decreased, the craftsmen cannot claim that the employer should detract from their wages the (lower) amount which he now must pay to the other workers; the employer pays the craftsmen only for the work which they themselves did, for calculating this way would be to their disadvantage). If the employer retracted, he has the lower hand.

Whoever changes (from the work which he was assigned to do) has the lower hand, and whoever retracts from his commitment has the lower hand. (75b – 76a)

Employers and Workers

[The Mishna had stated: If one hired craftsmen and they deceived each other, they have only complaints against each other.] The Mishna did not state: One or the other retracted (which would indicate that we are referring to the employer and the workers); but rather, it stated: They deceived each other, implying that the craftsmen deceived each other.

What is the case? The employer instructed one of his workers, “Go and hire me workers,” whereupon he went and deceived them. How so? If the employer’s instructions were to hire the workers at a rate of four *zuzim* per day, and he went and hired them for three (which they accepted); what cause do they have to complain? They understood and agreed!?

Perhaps the case was where the employer's instructions were for three *zuzim* per day, and he went and hired them at four (*and the employer paid them only three*); what then were the circumstances? If the worker who hired them said to them, "I am responsible for your wages," then he should be obligated to pay them out of his own pocket! For it was taught in a *braisa*: If one hires a worker to labor in his own field, but he directs him to his fellow's field (*where he goes and works*), the one who hired him must pay him in full, and he may receive compensation from the owner of the field according to the value for that which he benefitted him!?

The *Mishna's* case must be where he said to them, "The employer is responsible for your pay." [*And since the employer agreed to only three zuzim, they have no monetary claim against him; they can merely complain to the worker who engaged them.*]

The *Gemora* asks: But let us see at what rate workers are generally hired (*and if it is four, they should be able to claim four from the employer; if it is three, they cannot even complain*)!?

The *Gemora* answers: The *Mishna* is referring to a case where some workers are engaged for four *zuzim* and others for only three. They are complaining to the one who hired them, "Had you not told us that it is for four *zuzim*, we would have taken the trouble to find a different employer who would have given us four."

Alternatively, the *Mishna* can be referring to workers who also are field owners. They can say to him, "Had you not promised us four, it would have been beneath our dignity to accept employment for such a wage."

Alternatively, it may refer to ordinary workers (*who do not own fields*). Yet they can say to him, "Since you told

us that the rate was for four *zuzim*, we took the trouble of doing superior work."

The *Gemora* asks: But then let us examine their work (*and if it emerged that they did do superior work, they should be entitled to four, and if they did ordinary work, they deserve only three, and they should not be complaining*)!?

The *Gemora* answers: They were digging a ditch (*around a field*) which became filled with water, and so, it is not known (*if it was dug well or not*).

Alternatively, the *Mishna*, in truth, can be referring to a case where the employer's instructions were to hire the workers at a rate of four *zuzim* per day, and he (the agent) went and hired them for three (*which they accepted*); and we objected to this explanation by asking: What cause do they have to complain? They understood and agreed!? They can protest against him by asking, "Do you not believe in the verse: *Do not withhold good from its owner?*" [*And if he was willing to give us four, why did you not inform us?*]

It is obvious that if the employer instructed an agent to hire workers for three *zuzim* per day, and he went and promised them four, but they stipulated, "We accept according to the employer's instructions," their reliance was upon him (*for the higher wage*). But what would the *halachah* be if the employer instructed him to hire them at four *zuzim*, and he went and promised them three, and they said, "We accept according to the employer's instructions"? Did they rely on the agent's words, saying to him, "We trust you that the employer had instructed you to say this," or perhaps they relied upon the words of the employer?

The *Gemora* wishes to resolve this from the following: If a woman says to her agent, "Bring me my *get*," but the agent told the husband, "Your wife said to me, 'Accept my *get* on my behalf,'" and the husband said, "Here is her *get*

as she said,” Rav Nachman said in the name of Rabbah bar Avuha, who said in the name of Rav: Even when the *get* reaches her hand, she will not be divorced. From this we may conclude that the husband was relying on the agent’s word, since if he was relying on the wife’s word, she should at least be divorced when the *get* reaches her hand!

Rav Ashi asked: Now is this really so? We could have concluded like so if the opposite would have been stated: If the woman says to her agent, “Accept for me my *get*,” but the agent told the husband, “Your wife said to me, ‘Bring me my *get*,’” and the husband said, “Here is her *get* as she said,” Rav Nachman said in the name of Rabbah bar Avuha, who said in the name of Rav: Once the *get* reaches the agent’s hand, she will be divorced. This would have proven that the husband was relying on his wife’s word. Alternatively, if Rav Nachman would have ruled that she is divorced when the *get* reaches her hand, we could have concluded that the husband was relying on the agent’s word. However, here, the reason why the *get* is not valid is because the agent completely nullified his agency by saying, “I am willing to be an agent for accepting the *get*, but not for delivering it.” [*Whether the husband relies on the agent’s word, or whether he relies on his wife’s word, the get is not valid in this case, and therefore, nothing may be proven regarding that question.*]

Alternatively (*the Gemora returns to its original explanation of the Mishna*), the *Mishna* means that either the employer or the worker reneged on the arrangement, and the *Tanna* uses the word “deceived” to mean “reneged.”

The *Gemora* cites a *braisa* to prove this: If one hires craftsmen and they deceive the employer, or the employer deceives them, they have nothing but complaints against each other (*but no monetary claim*). This (*that they have no legal claim against their employer*) holds true only if they have not traveled to their job (*for*

they still have time to find other means of employment); but if donkey drivers are hired to transport a load of grain from a certain place to another, and they go there and find no grain, or workers, who are hired to plow a field go and find the field wet (*making it unfit for plowing*), he must pay them in full; yet travelling with a load is not the same as travelling empty-handed, nor is performing labor the same as sitting idle (*their wages are slightly discounted, for it is easier to travel empty-handed than with a full load*).

Furthermore, this (*that they have no legal claim against their employer*) holds true only if they have not commenced their work; but if they have begun to work, the portion completed is assessed for them. How is this done? If they contract to harvest a field of standing grain for two *sela'im* (*eight dinarim*), and they harvested half, and they left half; or they were hired to weave a garment for two *sela'im*, and they wove half and left half, the portion completed is assessed: If (*the price has since risen*) it is worth six *dinarim*, he must pay them a *sela* (*and it will cost him another six dinarim to complete the job*), or they can complete the work and receive two *sela'im*; if it is worth a *sela*, he must pay them a *sela*. Rabbi Dosa said: That which still remains to be completed is assessed. If (*what is left*) it is worth six *dinarim*, he pays them a *shekel* (*two dinarim*), or they can complete their work and receive two *sela'im*; if it is only a *sela*, he must pay them a *sela*.

Now, these words (*that the workers are not liable any more for reneging on the deal*) are true only if there is no loss suffered by the owner (*if the work is delayed until new workers are found*); but if the owner does suffer a loss, he can hire other workers at high costs (*which the first workers will be liable to pay for*), or he can deceive them (*into working*). How does he deceive them? He says to them, “I have promised you a *sela*; come and I will give you two” (*he would only be obligated to give one*).



The *braisa* asks: And to what extent may he hire workers to replace them (*and that the workers will be obligated to pay*)? Even to forty or fifty *zuzim* (*dinarim*).

These words (*that the original workers are liable to pay for the replacement workers*) are said only if there are no workers (*for the standard wage*) available for hiring; but if there are available workers, and the first workers say to him, “Go out and hire any of these,” he has nothing but complaints against them.

It was taught before Rav: [*If donkey drivers are hired to transport a load of grain from a certain place to another, and they go there and find no grain, or workers, who are hired to plow a field go and find the field wet (making it unfit for plowing),*] he must pay them in full. Rav said: My uncle, Rabbi Chiya said: If I would have been the employer, I would have paid them only as unemployed workers (*for they did not actually perform any labor*), yet you say that he must pay them in full!?

The *Gemora* asks on Rav: But surely, the *braisa* states: yet travelling with a load is not the same as travelling empty-handed, nor is performing labor the same as sitting idle (*their wages are slightly discounted, for it is easier to travel empty-handed than with a full load; this is seemingly what Rav would hold*)!?

The *Gemora* answers: The *braisa* had not been completed to Rav (*when he challenged them on the logic of the halachah*).

Others relate the discussion as follows: The *braisa* had been completed before him, and this is what Rav said: My uncle, Rabbi Chiya said: If I would have been the employer, I would not have paid them at all, yet you say that he must pay them as unemployed workers!?

The *Gemora* asks that the *braisa* opposes him (*for it clearly rules that they must be paid*)!?

The *Gemora* answers: There is no difficulty, for Rabbi Chiya’s ruling would apply in a case where the workers viewed the field the previous evening (*and they should have realized that it will not be suitable for working*); whereas the *braisa* is referring to a case where they did not.

QUESTIONS AND ANSWERS FROM YESTERDAY’S DAF to refresh your memory

Q: What is the *halachah* if one lends wheat for wheat?

A: If the price decreases, the borrower may return wheat; if it increases, he pays back with money.

Q: Is one permitted to lend a *se’ah* for a *se’ah* when he has a *se’ah* in stock?

A: *Tanna Kamma* – yes; Hillel – no.

Q: How much does the lender need to have in stock in order to lend a *se’ah* for a *se’ah*?

A: Rav Huna – he needs the entire amount; Rav Yitzchak – as long as he has a little from that type.

DAILY MASHAL

A Good Rest

Chazal say that he who lends for interest will not wake at the Revival of the Dead. Why are they punished so harshly? HaGaon Rabbi Yonasan Eibenschutz zt”l explained that such a person would boast that while he just lays on his bed, his funds multiply without effort. At the Revival of the Dead he will ask to rise with everyone else but a voice will echo in his grave: “Why should you get up? Keep lying down and your money will still grow.”