8 Teves 5777
Jan. 6, 2017

DAF Notes
Insights into the Daily Daf
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Bava Metzia Daf 102

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 rents a house to his fellow, the landlord must provide a door, a bolt, and a lock, and whatever is the work of a craftsman. However, whatever is not the work of a craftsman, the renter must do it.

The manure (*found in the courtyard*) belongs to the householder. The renter has only what comes out of the oven and the stove. (101b)

Landlord and Tenant

The *Gemora* cites a *braisa*: If a man rents a house to his fellow, the landlord must erect the doors, open the windows, strengthen the ceiling, and support the (*broken*) beams. The tenant must provide the ladder (*for ascending occasionally to the roof*), construct a railing for the roof, fix a gutter-spout (*to ensure that the water runs away from the walls of the house; this did not require a craftsman*), and plaster his roof.

They inquired of Rav Sheishes: Who is required to affix the *mezuzah* to the doorpost?

The *Gemora* asks: Rav Mesharshiya ruled that the obligation to affix a *mezuzah* is incumbent upon the one who resides in the house.

Rather, the inquiry was: Who has the obligation to prepare a place on the doorpost for the *mezuzah*?

Rav Sheishes said: This can be proven from our *Mishna*, which states: However, whatever is not the work of a craftsman, the renter must do it. And since it is quite possible to place the *mezuzah* in a reed tube and hang it on the doorpost, a craftsman would not be required (*so the obligation clearly rests on the tenant*).

The *Gemora* cites a *braisa*: If one rents a house to his fellow, the tenant must provide a *mezuzah*. And when he leaves, he must not take it with him, unless he rented it from a gentile, in which case, he must remove it when he leaves. And it once happened that a man took the *mezuzah* away with him, and he buried his wife and two children.

The *Gemora* asks: Do we relate a story in contradiction of what we had just learned?

Rav Sheishes answers: It refers to the first clause (*where he rented from a Jew*). (101b - 102a)

Courtyard of the Landlord

The *Mishna* had stated: The manure (*found in the courtyard*) belongs to the householder.

The *Gemora* explains that the *Mishna* is referring to a case where the courtyard belongs to the landlord and the oxen came from outside (*they do not belong to either one of them*).

This would be a proof to that which Rabbi Yosi ben Chanina said, for he said: A courtyard of a person can acquire for him even without his knowledge (*and that is how the landlord acquires the manure*).

The *Gemora* asks on Rabbi Yosi from a *braisa*: If a man declared, "Any lost property that may enter my courtyard today, let my courtyard effect possession for me," he has said nothing (*for he has no knowledge of anything entering his courtyard*). Now if Rabbi Yosi ben Chanina's ruling, that a man's courtyard can acquire for him even without his knowledge, is correct, why is his declaration useless?

It must be that the *braisa* is referring to an unguarded courtyard.

If so, the *Gemora* asks, consider the second clause of the *braisa*: If a rumor was spread in town that he had found something (*a lame deer had entered his courtyard*), his declaration is valid. Now, if it is an unguarded courtyard, what does the rumor help?

The *Gemora* answers: Since a rumor was spread, people stay away from it (*assuming that it belongs to him*), and so it becomes as a guarded courtyard.

The *Gemora* asks from another *braisa*: The ashes from the oven and the stove, and the manure which is caught from the air (*as the tenant hung a utensil in the airspace of the courtyard in order to collect the animal's dung*), belong to the tenant. However, that which is found in the barn and the courtyard belongs to the landlord. Now, if Rabbi Yosi ben Chanina's ruling, that a man's courtyard can acquire for him even without his knowledge, is correct, why when the tenant collects it from the air does it belong to him? Is it not the air of the landlord's courtyard?

Abaye answered: It means that he attached a utensil to the body of the cow.

Rava answered: An object in the air, in which it is not destined to come to rest (*like this case, where the utensil is blocking it*), is not regarded as if it is resting (*and therefore the courtyard will not acquire for the landlord*).

The *Gemora* asks: But is Rava certain about this? Did he not inquire: What if one threw a wallet through one door and it exited from another? Is an object in the air, in which it is not destined to come to rest, regarded as if it is resting, or not?

The *Gemora* answers: In that case, there is nothing whatsoever to stop it; here, however, a utensil intervenes between the dung and the courtyard.

The *Gemora* asks from another *braisa*: Doves of the dovecote, and doves of the loft (*they both seek their food elsewhere, but come to nest in the dovecote or the loft; they are not domesticated*) are subject to the laws of sending away (*the mother bird and only then is he permitted to take the eggs; this mitzvah does not apply to domesticated birds*), and are forbidden as robbery for the sake of peace. Now, if Rabbi Yosi ben Chanina's ruling, that a man's courtyard can acquire for him even without his knowledge, is correct, let us apply here the verse: *If a bird's nest chances to be before you*. This excludes that which is at hand (*and if he acquires the eggs through his courtyard, there should be no mitzvah*)!?

Rava answers: As for the egg, when the majority of it has issued from the mother's body, it is subject to the law of sending away, while the owner of the courtyard does not acquire it until it falls into the courtyard. And when the *braisa* stated: They are subject to the law of sending away, it meant before it fell into the courtyard.

If so, the *Gemora* asks, why are they (*the eggs*) forbidden as robbery (*even on a Rabbinical level; they didn't fall into the courtyard*)?

The *Gemora* answers: The *braisa* is referring to the mother (*for the owner believes that she will return; it is therefore Rabbinically forbidden to steal her*).

Alternatively it may refer to the eggs, but when the majority of it has issued from the mother's body, his intention is set

upon them (*and although he has not acquired them, the Rabbis prohibited others to take them*).

And now that Rav Yehudah said in the name of Rav that it is forbidden to take the eggs as long as the mother is sitting upon them, for it is written: *You shall surely send away the mother*, and only then does it state: *you shall take the young for yourself*; you may say that the *braisa* is referring to a case where the eggs fell into his courtyard, and nevertheless, it is subject to the law of sending away. This is because wherever he himself may acquire it, his courtyard can acquire it for him; but where he himself cannot acquire it (*for he would be transgressing the mitzvah*), his courtyard cannot acquire it for him either.

The *Gemora* asks: If so, are they forbidden as robbery only for the sake of peace? If the stranger sent the mother away, it is Biblical robbery (*for the courtyard owner can now legally acquire the eggs*)! And if he did not, she is to be sent away (*and he has violated this Biblical mitzvah*)!?

The *Gemora* answers: The *braisa* refers to a minor, who is not obligated to send her away.

The *Gemora* asks: But is a minor subject to provisions enacted for the sake of peace?

The *Gemora* answers: It means that the father of the minor must return them for the sake of peace. (102a)

Mishna

If one rents a house to his fellow for a year, and the year became a leap year, it was intercalated for the tenant (*and he would not be required to pay rent for the extra month*). If he rented it to him monthly, and the year was proclaimed a leap year, it was intercalated for the landlord. It once happened in Tzippori that a person rented a bathhouse from his fellow for twelve gold *dinars* a year, one gold *dinar* a month. The case came before Rabban Shimon ben Gamliel and before Rabbi Yosi, and they said: They shall divide the intercalated month. (102a - 102b)

Two Expressions

The *Gemora* asks: Do we relate a story in contradiction of what we had just learned?

The *Gemora* answers: It is as if there were missing words in the *Mishna*, and this is what it should say: If the landlord said, "I am renting it to you for twelve gold *dinars* a year, one gold *dinar* a month" (*and it became a leap year*), the extra month is divided between them (*for we do not know if we should follow his initial words, or his concluding words; we therefore rule like Sumchos - and we split the money*). And it once happened in Tzippori that a person rented a bathhouse from his fellow for twelve gold *dinars* a year, one gold *dinar* a month. The case came before Rabban Shimon ben Gamliel and before Rabbi Yosi, and they said: They shall divide the intercalated month.

Rav said: If I would have been there, I would have given the entire month to the landlord.

The *Gemora* asks: What novelty is Rav teaching us? Is he teaching us that the last expression alone is regarded? But Rav has already said that once! For Rav Huna said in the name of the *Beis Medrash* of Rav: If the agreed price is an *istera* (*which is half a dinar; equivalent to ninety-six perutos*), a hundred *ma'os* (*a hundred perutos*), then, the buyer must pay a hundred *ma'os*. If, however, the seller says, "A hundred *ma'os*, an *istera* is the price," an *istera* must e paid!? [*Obviously, Rav maintains that we follow his second expression!?*]

The *Gemora* answers: If it was only from there, I might have thought that the second term is explaining the first (*either that he wants a hundred inferior perutos, which is equivalent to an istera; in other words - ninety-six perutos; or he wants an expensive istera, which is a hundred perutos*); therefore we are informed otherwise (*by this teaching of Rav*).

Shmuel said (*to explain why the Mishna ruled that we divide the extra month*): We refer to a case where the landlord came to claim the rent in the middle of the thirteenth month. [*Shmuel agrees that the ruling is based upon the uncertainty if we should follow his initial words, or his concluding words; the principle of the chezkas mamon - who is currently in possession of the money - decides the case. If he comes in the middle, the renter is not required to pay for the past days, for he is in possession of his money. The landlord, however, has possession of the property, and can therefore demand that he pays for the next half of the month, or he should leave.*] If he would have come at the beginning, the entire month's rent would belong to the landlord. If he would have come at the end, it would belong to the tenant.

The *Gemora* asks: Does Shmuel reject the principle that we follow a person's last expression? But Rav and Shmuel both said: If a seller says to a buyer, "I am selling you a *kor* (*thirty se'ah*) for thirty *sela'im*," he can retract even at the last *se'ah* (*for he said, "I am selling you a kor," not thirty se'ah*). But if he says, "I am selling you a *kor* for thirty (*sela'im*), a *sela* per *se'ah*, then as the buyer takes each *se'ah* (*and makes a kinyan*), he acquires it (*and the seller cannot renege on the deal*)!? [*Evidently, Shmuel maintains that we do follow a person's last expression!?*]

The *Gemora* answers: The reason there (*although Shmuel is indeed uncertain as to which expression to follow*) is that he (*the buyer*) has taken possession. So here too, they each have taken possession (*of half the month*)!

But Rav Nachman ruled: Land remains in the presumptive possession of its owner (*and therefore the entire month's rent belongs to the landlord*).

The *Gemora* asks: Now, what is he teaching us - that we follow the last expression (*which is that it is rented monthly*)? But that is precisely what Rav said!?

The *Gemora* answers: Rav Nachman is teaching us that the month's rent belongs to the landlord even if the terms were reversed (*and he said, "I am renting it to you for one gold dinar a month, twelve gold dinars a year"*). [*Rav Nachman agrees that the ruling is based upon the uncertainty if we should follow his initial words, or his concluding words; the principle of the Rabbis - whoever is attempting to exact money from his friend, he has the burden of proof - decides the case. The landlord is the possessor of the land. Even if the renter lived there for the entire month, he should not have done so, and he is required to pay the rent to the landlord.*] (102b)

Dispute over Rent Payment

They inquired of Rabbi Yannai was asked: If the tenant claims, "I have paid rent," and the landlord counters, "I have not received it," upon whom rests the onus of proof?

The *Gemora* notes: When precisely did the dispute take place? If it was within the term of the rental, we have learned it! If it took place after the lease has expired, we have also learned it!? For we have learned in a *Mishna*: If the father died within the thirty days (*of his firstborn son's birth*), the presumption is that the firstborn has not been redeemed (*for the obligation to redeem him is not until thirty days*), unless proof is brought to the contrary. If he died after thirty days, he is presumed to have been redeemed, unless they (*the neighbors*) tell him that he was not redeemed!?

The *Gemora* answers: The inquiry is only when the dispute arises on the day that the lease expired. The question was: Does one pay his rent on the day that his lease expires, or not?

Rabbi Yochanan said to them: We have learned the answer in a *Mishna*: If a hired worker, on the expiration of his term, asks to be paid, and the employer counters that he has already paid him, the worker swears and is paid. Thus, it is only the worker whom the Rabbis subjected to an oath,

because the employer is occupied with all his workers (*and will not remember if this particular one was paid or not*). But here, the tenant is believed that he paid, provided that he takes on oath. (102b - 103a)

INSIGHTS TO THE DAF

The Mezuzah's Protection

The *Gemora* cites a *braisa*: If one rents a house to his fellow, the tenant must provide a *mezuzah*. And when he leaves, he must not take it with him, unless he rented it from a gentile, in which case, he must remove it when he leaves. And it once happened that a man took the *mezuzah* away with him, and he buried his wife and two children.

The *Gemora* asks: Do we relate a story in contradiction of what we had just learned?

Rav Sheishes answers: It refers to the first clause (*where he rented from a Jew*).

Tosfos writes that there are *mazikin* - supernatural forces that enter a house bereft of a *mezuzah*.

The Ritva explains that this punishment was measure for measure. Since he was not concerned about the danger that could befall the future residents (*for now, they will not be protected by the mezuzah*), he himself suffers, and he is not afforded any protection.

The Kesef Mishnah writes that a *mezuzah*, which is written correctly, will protect the residents of the house. The protection is not afforded because of the names of Heavenly angels that are written there. And, he concludes, it will only protect a person if it was affixed to the doorpost for the sake of the *mitzvah*; not if it was placed there solely for protection.

DAILY MASHAL

The Maharitz Chayus compares the protection afforded by the *mezuzah* to the protection that comes from the studying of Torah or the performance of any *mitzvah*. It would emerge that that there is no greater protection afforded by the *mezuzah* more than any other *mitzvah* in the Torah.

Reb Avi Lebovitz points out that seemingly, there will be no protection afforded to a person who is exempt from the *mitzvah* of *mezuzah*, and does so anyway. It is not the *mezuzah* that provides the protection; it is the *mitzvah* of the *mezuzah*.

However, the Maharsham cites an opinion of the Shevus Yaakov, who holds that even if one is exempt from placing a *mezuzah* on a certain doorpost, he may do so for protection purposes, and he would not be called a *hedyot*.

QUESTIONS AND ANSWERS FROM YESTERDAY'S DAF

to refresh your memory

Q: A river swept away a person's olives trees and deposited them (*together with their roots*) in someone else's field. In what case would they split the olives?

A: It is only if they were uprooted together with their clods of earth, and only within the first three years.

Q: Why can't the owner of the trees say that he wishes to take back his trees?

A: It is because of the significance of settling *Eretz Yisroel*.

Q: When must a landlord serve notice to his tenant that he wishes to evict him?

A: Thirty days before the winter season.