

17 Teves 5777  
Jan. 15, 2017



Bava Metzia Daf 111

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

### ***Delaying Payment of Worker’s Wages***

The *Gemora* cites a *braisa*: If one says to his fellow, “Go and hire workers for me,” neither of them will transgress the prohibition of holding a worker’s wages overnight. The employer cannot be liable, for he did not hire him (*and the employee is therefore not regarded as “his hired worker”*). The agent cannot be liable, for he is not the one who owes the worker his wages.

The *Gemora* analyzes the case: How are we talking? If the agent said to them, “I am responsible for your wages,” then he is surely responsible, for it has been 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 *Gemora* answers that the *braisa* must be referring to a case where he said to them, “The employer is responsible for your pay.”

Yehudah bar Mereimar used to instruct his servant, “Go and hire workers for me, and say to them, ‘Your employer is responsible for your wages.’”

Mereimar and Mar Zutra used to hire workers for each other (*and this way, just in case they could not pay the wages on time, they would not be violating the prohibition*).

Rabbah son of R. Huna said: The market traders of Sura do not transgress the prohibition of holding their worker’s wages overnight, because it is well known that the traders rely upon the market day (*to get the funds to pay their workers; and once the first day passes, there is no more Biblical prohibition for delaying their wages, as we learned above 110b*). However, there is a Rabbinical prohibition against delaying their wages (*if they do not pay once the market day arrives*).

The *Mishna* had stated: If he is paid by the hour, he must be paid all day and all night.

Rav said: A man hired for several hours of day work can collect his wages all day (*and afterwards, the owner, if he still didn’t pay, will have violated the prohibition of holding his worker’s wages*). One who was hired for several hours of night work, can collect his wages all night (*and afterwards, the owner, if he still didn’t pay, will have violated the prohibition of holding his worker’s wages*). Shmuel disagrees: A man hired for several hours of day work can collect his wages all day (*like Rav*). One who was hired for several hours of night work, can collect his wages all night and the following day (*for the day, in the Jewish calendar, follows the night; it is still regarded as the same day*).

The *Gemora* asks on Rav from our *Mishna*: If he is paid by the hour, he must be paid all day and all night. This refutes Rav!?

The *Gemora* answers that Rav can say that the *Mishna* is in fact teaching two separate *halachos*. A man hired for several hours of day work can collect his wages all day. One who was hired for several hours of night work, can collect his wages all night.

The *Gemora* again asks on Rav from our *Mishna*: If he was hired for a week, month, year, or seven years, if his employment finishes during the day, he must be paid on that day. If he finishes during the night, he must be paid that night and the next day!?

The *Gemora* answers that Rav can say that there is a *Tannaic* dispute regarding the matter. For we learned in a *braisa*: A man hired for several hours of day work can collect his wages all day. One who was hired for several hours of night work, can collect his wages all night; these are the words of Rabbi Yehudah. Rabbi Shimon said: A man hired for several hours of day work can collect his wages all day. One who was hired for several hours of night work, can collect his wages all night and the following day.

The *braisa* continues: From here they said: Whoever withholds the wages of a hired worker transgresses five prohibitions and one positive commandment. They are as follows: *Do not retain what is due to your fellow; Do not rob him; Do not retain the wages of your worker that is poor; Do not withhold his wages overnight*; the positive commandment is: *On his day you shall give him his hire; and the sun shall not go down upon him*.

The *Gemora* asks: But surely those that apply to a worker by day do not apply to the worker at night, and those that apply at night do not apply at day!?

Rav Chisda answers: The *braisa* is referring to the prohibitions of hiring workers in general.

The *Gemora* asks: What is regarded by 'retention' (*of his wages*) and what is regarded as 'robbing' (*his wages*)?

Rav Chisda said: If he constantly says, "Go, and come back again, go and come back again," that is 'retention' (*of his wages*). If, however, he says, "I have your wages, but I will not pay it," that is 'robbery.'

Rav Sheishes asked: For what form of 'retention' (*of his wages*) did the Torah impose a sacrifice (*when he swears falsely*)? It is for that which is analogous to a case of deposit, where one denies money falsely (*so here, it cannot be that he is merely delaying the payment of the worker's wages*)!?

Rather, Rav Sheishes said: If he says, "I have already paid you" that is 'retention' (*of his wages*). If, however, he says, "I have your wages, but I will not pay it," that is 'robbery.'

Abaye asked: What is 'robbery' for which the Torah imposed a sacrifice? It is for that which is analogous to a case of deposit, where one denies money falsely (*so here, it cannot be that he is admitting that he owes the wages*)!?

Rather, Abaye said: If he said, "I never hired you," that is 'retention' (*of his wages*). If, however, he says, "I have already paid you" that is 'robbery.'

Rava said: 'Retention' (*of his wages*) and 'robbing' (*his wages*) are identical. Why then did the Torah divide them? It is so that the employer will have violated two negative prohibitions. (110b - 11a)

### **Mishna**

[*This Mishna continues to teach the halachos concerning the wages of a hired worker.*] It is all the same, whether it is the hire of a man, the hire of an animal, the hire of



utensils - “*On his day you shall give him his hire*” applies to it, and “*The wages of a hired worker shall not remain with you overnight until the morning*” applies.

When does the prohibition apply? It is when the worker claimed his wages from him. If he did not claim from him, the employer does not transgress it. If the employer instructed him to go to a shopkeeper or a moneychanger (*where the worker can take food or money for his wages*), the employer does not transgress it.

A hired worker during the time that the wages are due may take an oath (*that he was not paid*) and collect his wages. After that time, he does not take an oath and collect. If there are witnesses that he requested to be paid, he takes an oath and collects.

Regarding a resident alien (*ger toshav*) - “*On his day you shall give him his hire*” applies to him, but “*The wages of a hired worker shall not remain with you overnight until the morning*” does not apply to him. (111a)

### **Opinions and Scriptural Verses**

The *Gemora* asks that the *Tanna* of our *Mishna* is not in accordance with the *Tanna Kamma* or Rabbi Yosi the son of Rabbi Yehudah, whose opinions are cited in the following *braisa*.

The *Tanna Kamma* holds:

1. Idolaters are excluded in the prohibition (since it is written: *brethren*).
2. A righteous convert is included (since it is written: *your convert*).
3. A resident alien is included (since it is written: *in your gates*).
4. Renting an animal or utensils is included (since it is written: *in your land*).
5. One who holds back any of these payments violates all the prohibitions.

Rabbi Yosi the son of Rabbi Yehudah holds:

1. Regarding a resident alien - “*On his day you shall give him his hire*” applies to him, but “*The wages of a hired worker shall not remain with you overnight until the morning*” does not apply to him.
2. Renting an animal or utensils is only included in the prohibition of retaining payment.

The *Mishna* cannot be in accordance with the *Tanna Kamma* on account of the alien resident ruling (*for the Mishna ruled that the prohibition of “The wages of a hired worker shall not remain with you overnight until the morning” does not apply to him*). And it cannot be following the opinion of Rabbi Yosi the son of Rabbi Yehudah on account of his ruling pertaining to the rental of animals or utensils (*for our Mishna ruled that both “On his day you shall give him his hire,” and “The wages of a hired worker shall not remain with you overnight until the morning” apply to it!*)?

Rava answers that there is a *Tanna* in Rabbi Yishmael's Beis Medrash that holds the same as the *Tanna* of our *Mishna*.

The *Gemora* discusses how the various *Tannaim* expound the verses that formulate their opinions.

The *Gemora* cites a universally accepted *halachah* that if one hired two workers, one wealthy and one poor, and he only has enough funds to pay one of them, he is obligated to pay the poor worker before the wealthy one.

The *Tanna Kamma* has an extra verse which teaches us that if one hired two workers, one poor and one was destitute (*a deeper level of poverty*), and he only has enough funds to pay one of them, he is obligated to pay the poor worker before the destitute one.

DAILY MASHAL

**The Reward for Faith**

The *Gemora* explains why both of those *halachos* are necessary to teach. For if we were merely taught that the poor man take precedence over the destitute one, I would think that it is because the one who is destitute is not ashamed to demand his wages from the employer (*and he will do so later*). But as for the wealthy, who is ashamed to demand it from him, I might say that it is not so (*and a poor man will not take precedence over him*). And if we would learn this *halachah* only in respect to the wealthy, I would think that it is because he is not in need of the wages (*and that is why a poor man takes precedence over him*); but as for the destitute one, who desperately needs the wages, perhaps it is not so (*and he would take precedence over the ordinary poor person*). This is why both rulings are necessary.

The *Gemora* discusses why the *Tanna* of our *Mishna* includes the rentals of animals and utensils in all the prohibitions, and he excludes the wages of a resident alien.

The *Gemora* says that the *Tanna Kamma* has an extra verse to teach us that not only is one permitted to retain the wages of an Amaleki, it is also permitted to rob him of his property.

The *Gemora* explains why both of those *halachos* are necessary to teach. For if we were merely taught that it is permitted to rob him, that may be because he has not worked for him. But as for retaining his wages, I would think that that is not permitted. And if we were taught that it is permitted to retain his wages, that may be because his wages did not yet reach his hand; but perhaps it would be forbidden to rob from him. This is why both rulings are necessary. (111a - 111b)

Our sugya explains that someone who hires a worker through a representative is exempt from the prohibition on delaying his wage. Rebbe Heshel of Krakow clarified an apparently questionable midrash in the spirit of this halachah:

According to the Midrash, "Everything the Jews eat in this world is in reward for their faith". Why only for their faith? Rebbe Heshel explains that, as we know, the Jews got the Torah from Moshe Rabeinu, Hashem's representative. We are thus not like workers hired by the employer who, if he fails to pay them immediately, transgresses the prohibition on delaying their wage. At the announcement of the Ten Commandments, though, the first two, demanding faith in Hashem's oneness and the denial of any other divine power, were given directly by Hashem and He therefore gives us our reward for them immediately in this world (Chanukas HaTorah, Yisro, #84).