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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

Conflicting Claims

Rava lists the rules for deciding between two claimants who bring proof to their ownership:

Claimant # 1's proof	Claimant # 2's proof	Resolution	Reason
Identifying signs	Identifying signs	Leave it	Both proofs equivalent
Identifying signs	Witnesses	Claimant 2	Witnesses are superior proof, even if signs are also valid from the Torah
Identifying signs	Identifying signs and one witness	Leave it	One witness isn't substantive
Witnesses of his weaving	Witnesses to his loss	Claimant 2	Claimant 1 may have sold it and it fell from another
Length	Width	Claimant 1	Width is easily seen, even on someone else's garment; length is difficult to gauge
Length and width	Perimeter	Claimant 1	More distinct sign
Length and width	Weight	Claimant 2	More distinct sign

When there is no resolution, the item is left by the finder in escrow until Eliyahu Hanavi comes.

[Rava then details the resolution when a *get* is found, and the husband and wife both claim it, with varying signs.] If he [the husband] states the identification marks of a *get*, and she does likewise, it must be given to her.¹ By what [is it identified]? Shall we say, by its length and width? Perhaps she saw it while he was holding it? Rather she said, "There is a hole next to a specific letter."

If he identifies the cord [with which the *get* was tied], and she does likewise, it must be given to her. By what [is it identified]? Shall we say, by [its color], white or red? Perhaps she saw it while he was holding it? — Hence, by its length. If he states, [it was found] in a skin, and she states likewise, it must be surrendered to him. Why? She knows full well that he places whatever he has [of his documents] in a skin. (28a1 – 28a2)

Announcement

The *Mishnah* discusses how long a finder, who must return an item, must announce it. Rabbi Meir says he must do so until the neighbors hear about it. Rabbi Yehudah says he must first announce it in Yerushalayim on three Festivals, and after the final festival - seven more days, so that the owner (of the lost article) should have three days to travel home (from Yerushalayim in order to check if he lost the item), and then three days to return, and one final day to announce it (and its identifying marks). (28a2)

¹ The principle is that the husband would be able to identify the *get*, even if he gave it, since he had it before giving it. If the wife can identify the *get* well, this indicates that she already received it. Therefore, for distinct signs that both

husband and wife claim as proof of ownership, the wife has a stronger proof, and the *get* is given to her.

A Baraisa was taught: The neighbors of the loss [are referred to in the Mishnah]. What is the meaning of ‘the neighbors of the loss’? Shall we say, the neighbors of the loser? But if they know him [who lost it], let them go and return it to him! — But [it means] the neighbors of the vicinity wherein the lost article was found. (28a2)

Travel Time

Rabbi Yehudah implied that it takes three days to travel from Yerushalayim to the outer border of *Eretz Yisroel*, since that is the maximum time allotted for the owner to return home.

The *Gemara* challenges this from a *Mishnah*, in which Rabban Gamliel says that we delay praying for rain 15 days after *Sukkos* (until the 7th of *Marcheshvan*), to allow all those who came to Yerushalayim for *Sukkos* to arrive home before the rain begins. This implies that the time to travel from Yerushalayim to the outer border of *Eretz Yisroel* is 15 days.

Rav Yosef says that this is not a difficulty, as Rabban Gamliel was discussing the first *Beis Hamikdash* period, when there was a large Jewish population, and more expansive settlement, leading to a further distance to the outer border. However, Rabbi Yehudah is discussing the second *Beis Hamikdash* period, when the smaller Jewish population meant less expansive settlement, as it is written: The whole congregation together was forty-two thousand three hundred and sixty; and therefore a shorter time to travel was sufficient.

Abaye challenges Rav Yosef, since it is written: So the Kohanim and the Levites returned etc. and the singers, and the gatekeepers ... and all of Israel settled in their cities . [Scripture indicates that Jews settled all of *Eretz Yisroel* during the second *Beis Hamikdash* period.]

That being so, the logic is the reverse. [Instead, Abaye says:] The larger population during the first *Beis Hamikdash* period meant that people would join together in large numbers and there would be more frequent caravans that would travel

day and night; accordingly, not much time was required and three days were sufficient, while the smaller population in the second *Beis Hamikdash* period meant that they did not join together as much and caravans that traveled by day and night were not found, and therefore a longer travel time (15 days) was necessary. [Rabban Gamliel is thus referring to the second *Beis Hamikdash* period, while Rabbi Yehudah is referring to the first *Beis Hamikdash* period.] (28a2 – 28a3)

Not too much Trouble

Rava says that both are referring to the First and Second Temple, but only seven days are allotted for a lost item in any case, as the Rabbis did not wish to overly burden a person regarding a lost object.

Ravina says that from the extra seven days of Rabbi Yehudah we can see that one must announce the type of item lost, and not just that an item was lost. Otherwise, we would have allocated an extra day to allow the owner to check through all of his possessions, to be sure he didn’t lose any item. Evidently, we can learn from here that the finder announces he found a garment; indeed, learn from this.

Rava deflects this proof by again stating that the Sages eased the burden on the finder, even if that limits the time given to the owner. (28a3)

How to Announce

The *Baraisa* explains how the finder announces the lost item on the festivals.

1. On the first festival, he announces that an item was lost, and that this is the first festival it is being announced.
2. On the second festival, he repeats this, announcing that this is the second festival.
3. However, on the third festival, he just announces the lost item, without reference to it being the third festival.

The *Gemara* asks: Let him say the number on the third festival as well? The *Gemara* explains that at the last festival, we do not announce that it’s the third festival, so people should not confuse the third with the second (and thereby

he might not quickly check whether he lost an item). – If so, the second as well? - On the second festival, even if one is confused and thinks it is the first, he has one more festival to realize that time is running out to claim the item. (28a4 – 28b1)

Nowadays

The *Baraisa* says that when there was a *Beis Hamikdash*, a finder of a lost item would announce it in Yerushalayim for three festivals, and then wait 7 days. This was in order that one should have three days for going home, another three for returning, and one for announcing. Once the *Beis Hamikdash* was destroyed, may it be speedily built in our times, they instituted that the finder would announce it in the synagogues and the houses of study. But when the oppressors increased, it was enacted that one's neighbors and acquaintances should be informed, and that sufficed. What is meant by 'when the oppressors increased'? – They insisted that lost property belonged to the king.²

The *Gemara* says that Rabbi Ami found a container of gold coins. A man (a Roman who observed the discovery) saw that Rabbi Ami was scared (that he would take the coins from him). He said to Rabbi Ami: Go and take it for yourself, for we are not Persians, who say that all lost articles belong to the king. (28b1)

Where to Announce

The *Baraisa* says that there was a stone platform in Yerushalayim called *even hato'en* – the claiming stone – (which served as a lost and found clearinghouse). Whoever lost an article would turn there, and whoever found an article did likewise. The latter stood and proclaimed, and the former submitted his identification marks and received it back. This was the stone that Choni Hame'agel referred to when he told the people who complained of too much rain to "check whether the claiming stone was effaced." (28b1)

² Once the king enacted a law that any lost item must be given to the king, the Sages established that a finder should discretely inquire if anyone lost such an item. He would then remain inconspicuous and avoid giving the item to the king.

How to Announce

The *Mishnah* discusses how a finder should decide to whom to give the lost item. If one provides the finder the type of item, but no identifying signs, the finder should not return it to him. If the person claiming the item is dishonest, even if he provides identifying signs, the finder should not return it to him. As it says: Until your brother seeks it out; until you seek out the nature of your brother and determine if he is dishonest person or not.³ (28b1)

The *Gemara* cites a dispute between Rav Yehudah and Rav Nachman regarding how one announces a lost item. Rav Yehudah says that the finder announces that an item was lost and Rav Nachman says that he announces that he found a garment. Rav Yehudah says that the finder announces that an item was lost, without describing the type of item. If he would announce the type of item, we are concerned that a dishonest person with this information will discover details about the lost item, and falsely claim it. Rav Nachman says that he announces a garment, for we can never prevent a dishonest person from discovering details, since he may come with false information, even if he doesn't know the type of item. [Therefore, we disregard this concern, and instead announce the type of item, since that's the most effective way to identify the owner.]

The *Gemara* tries to prove Rabbi Yehudah's position from the *Mishnah*. The *Mishnah* said that if someone told the finder the type of item but no identifying signs, the finder should not return it to him. Now, if you say that he proclaims a lost object, it is well; we are thus informed that though he states that it was a garment, yet since he does not submit its identification marks, it is not returned to him. But if you say that he proclaims a garment, then if one [the finder] states that it was a garment, and the other [the claimant] states likewise, a garment, is it necessary to teach that it is not

³ The verse says that the finder should hold the item *ad drosh achicha oso* – until your brother seeks it out. The *Mishnah* explains that the verse also means until you seek out whether your brother is the true owner, obligating the finder to detect and avoid returning the item to a dishonest person.

returned to him unless he declares its marks of identification?⁴

Rav Safra deflects this by saying that the *Mishnah* means that he [the finder] stated [that he had found] a garment, while the other [the claimant] submitted identification marks. What then is meant by 'He did not state its identification marks'? — He did not state its perfect identification marks. (28b1 – 28b2)

Avoiding Dishonest Claimants

The *Mishnah* had stated: If the person claiming the item is dishonest, even if he provides identifying signs, the finder should not return it to him.

The *Baraisa* says that originally, an item would be given to a claimant who provided identifying signs. When dishonest people became prevalent, the Sages said that one claiming an item must also bring character witnesses that testify to his honesty.

The *Gemara* tells a story of Rav Pappa's father who lost a donkey. When it was found, he went to Rabbah bar Rav Huna, who told him to bring character witnesses. When Rav Pappa's father brought witnesses, Rabbah bar Rav Huna asked them, "Do you know this man to be dishonest?", and they answered "Yes." Rav Pappa's father then rhetorically asked the witnesses, "Did I bring you to testify that I'm dishonest!?", and they answered, "We meant to say you're *not* dishonest." Rabbah bar Rav Huna accepted their explanation, and didn't consider it a retraction of testimony, since it's logical that one does not bring witnesses who will testify against him. (28b2)

No Loss

The *Mishnah* says that one who finds a lost item should not lose monetarily while waiting for the owner to retrieve it. Therefore, if the item must be maintained, but produces

⁴ If the finder already announced the type of item (as Rav Nachman says), it is obvious that the item is not given to the claimant, since he is not adding new information. If, however, the finder announced only that an item was found (as

income, the finder maintains it and keeps the produce in payment. If the item does not produce enough for its maintenance, the finder should sell the item, since the verse says that the finder should *return* the item to the owner. If he does not, there will be nothing left to return, since the item's value will be owed to the finder for the maintenance.

The *Mishnah* cites a dispute regarding the money from the sale. Rabbi Tarfon says that the finder may use the money, and therefore is liable if the money is lost, while Rabbi Akiva says the finder may not use the money, and therefore is not liable if it is lost. (28b3)

Does he need to keep it forever? Rav Nachman explains in the name of Shmuel that the finder does not need to retain items that produce enough for their maintenance more than 12 months. To prove this, the *Gemara* cites a *Baraisa*, which lists three categories of found animals:

Item	Halachah	Why
Cow or donkey	Keep for 12 months	Produces enough for its maintenance
Calves or young donkeys	Keep for 3 months	Does not produce enough
Male birds	Keep for 30 days	Do not produce anything

At the end of each period, the finder estimates the value of the items, sells them, and retains the money for the owner. (28b3)

Rav Nachman bar Yitzchak says that hens, which produce eggs, are in the same category as large animals, which are kept for 12 months.

Rav Yehudah says), the *Mishnah* is teaching us that identifying the type of object is insufficient.



The *Gemara* cites a *Baraisa* which proves this statement. The *Baraisa* also lists three categories:

Item	Halacha
Hens and large animals	Keep for 12 months
Calves or young donkeys	Keep for 30 days
Male birds	Keep for 3 days

The two *Baraisos* contradict each other in the two latter categories.

The *Gemara* resolves both contradictions:

1. Calves and young donkeys: When the finder is in an area of plentiful grazing land, the maintenance is not as high, and, therefore, he keeps the calves and baby donkeys for 3 months. Otherwise, he keeps them for only 30 days.
2. Male birds: When the male birds are big, they eat a lot, and therefore must be kept for only 3 days, but if they're small, they must be kept for 30 days. (28b3 – 28b4)

The Mishnah had stated: And something that does not work but eats ...

The *Gemara* cites a *Baraisa*: And you shall return it to him: deliberate how to return it to him, so that a calf may not be given as food to other calves, a young donkey to other young donkeys, a goose to other geese, or a rooster to other roosters. (28b4)

INSIGHTS TO THE DAF

How Meaningless

Rava said that if two claimants provide identifying signs, but one also brings one witness to prove his ownership, the single witness is meaningless, and the item remains unresolved. The Rambam (Gezeila v'aveida 13:6) and Rif understand Rava to mean that the one witness is ignored,

and the case reverts to one of equivalent proofs. The Rosh (13), however, maintains that the one witness does force the other claimant to take an oath that it is his, just as all cases where one witness causes the counter party to swear. Only if the claimant swears do we revert back to an unresolved conflict.

Identifying a Get

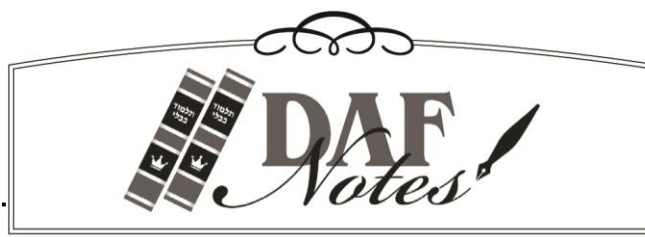
Rava also discusses how to resolve the case of a found get, for which both the husband and wife provide signs. The *Gemara* says that if the wife provides signs, it is given to her, since she would know these signs only if it was in her possession.

The Rif holds that this is true only for distinctive signs, such as a hole next to a specific letter. Other identifying signs, such as exact dimensions, do not suffice, even though they are sufficient for a lost item. The Rosh (14) holds that even identifying signs are sufficient for the wife to receive the get. All agree that the get is given to the husband to use for a divorce only if he provides distinctive signs. Since the *Gemara* is unsure whether the Torah recognizes signs that are not distinctive, we may not rely on such identification to validate a get document that may not belong to the husband. The Rosh holds that when giving the get to the wife, it is only as proof that she was divorced, and we always believe a woman who claims she was already divorced. Therefore, we can rely on identifying signs to give the wife her proof of divorce.

Which Signs

The Rambam (13:2) says that a lost item is only returned to one who provides signs that are "muvhakin" - the term used by the *Gemara* to refer to the most distinctive signs. The Magid Mishneh explains that there are three types of signs:

1. Basic signs, such as qualitative size (large vs. small) or color
2. Identifying signs, such as exact dimensions
3. Distinctive signs, such as the location of a hole next to a particular location



The *Gemara* indicates that the first type of signs is not considered a form of proof at all, while the last type is definitely considered a valid proof according to the Torah. The *Gemara* debates whether the second type of proof is valid according to the Torah, or only acceptable based upon Rabbinic law. The Rambam is using the term “muvhakin” to refer to the two latter categories of signs. See the Sma (267:7) and Bach (267) for alternate understandings of the Rambam.

The *Mishnah* says that the finder must be sure not to return the item to a dishonest claimant, even if he provides signs. The *Gemara* says that nowadays, since dishonest people are prevalent, a claimant must first bring testimony to his character, and then receive the item through signs.

The Rambam (13:3) says that a dishonest person does not receive the item without testimony to his ownership, even if he provides distinctive signs. The Rosh (14) states that distinctive signs are sufficient even today, even without character witnesses. The Tur (267) assumes that the Rosh means this even in the case of someone known to be dishonest, and therefore says that the Rosh and Rambam disagree.

The Sma (267:7) and others say that the Rosh is not disagreeing with the Rambam. The Rosh is only allowing distinctive signs for an unknown person, who we suspect of being dishonest, but the Rosh agrees that a person known to be dishonest must bring witnesses.

Sell vs. Estimate

The *Gemara* says that at a certain point in time, one need not retain the actual lost item, but he may convert it to money. Rashi says that the finder must sell the item, and guard the money until the owner returns. Tosfos, quoted in the Rosh (16) says that he may make a fair estimation of the worth of the item, and then use the item itself. When the owner comes to retrieve it, he can then pay the owner the worth of the item.

Announcements

The *Gemara* says that once the *Beis Hamikdash* was destroyed, announcements were to be made in shuls and batei midrashim. Later poskim explain that one must find a public way to spread the information of the lost item.

Rav Moshe Feinstein (HM 2:45) says that one should post notices in public areas, such as batei midrashim and shul bulletins. Presumably, posting online announcements would fall in the same categories today. Rav Moshe says that while putting an ad in a newspaper is a good way to publicize the item, one need not do so if it will cost money. The Chasam Sofer (HM 122) similarly describes putting an announcement in newspapers as being a valid form of announcement.

Let it Wait

Rav Moshe Feinstein (HM 2:45) explains that whenever an item must stay for a long period of time in the possession of the finder, he should make a note of the value of the item, as well as identifying signs, so that if one comes to claim it, he will have enough information to process the claim. He can then use the item himself. This applies to an item with no signs, but whose owner has not yet despaired, an item whose timeframe has elapsed, and an item whose ownership is unresolved until Eliyah Hanavi.

DAILY MASHAL

When the Temple stood, discoverers of lost items would announce their finds during Pessach, Shavuot and Sukkos, when everyone came to Yerushalayim. After the destruction of the Temple our sages decreed that finds should be announced in synagogues and batei midrashim. Sema (267, S.K. 4) mentions that finds used to be announced as the congregation gathered for prayer. Today people are accustomed to post prominent notices of finds at sites frequented by the public.