

A Ride to Nowhere

Not Always Cheap

On an average day, how many people do you employ? Unless you own a company, your first response to this question is most likely “none.” Think again. What about the barber who cut your hair today? You may also employ a cleaning lady. Does your child go to a school, playgroup, or babysitter? If so, they are also your employees.

You would be surprised at the number of employees you hire during an average week. In fact, you might say that in our day and age the typical person heads his own small company! In today's society, having a good working knowledge of the laws of the Torah that govern the employer-employee relationship is more important than ever.

However, public awareness of this area of *halachah* has not increased to meet the challenge. Disputes, disagreements, and even inadvertent theft are the unfortunate but inevitable results. To illustrate my point, I present to the reader the following scenario. It serves as a realistic example of the kind of halachic quandary in which any one of us might find himself when hiring a worker.

Chaim was running late. He was expecting his ride to the airport to come in twenty minutes, and he had not yet finished packing his bags. He knew that Shmuel, who was a driver for the local car service, would be on time. Shmuel often said that being punctual was part of his job. Chaim did not want to make Shmuel wait. He knew that he was lucky that Shmuel had agreed to take him to the airport on his day off. “Everyone knows not to call me on my day off, but because I have been having a small cash-flow problem recently, I will agree to take you for \$75, plus gas and tolls,” said Shmuel. Chaim thought that was

a bit expensive, but he was happy to have found a ride and to do his part to help Shmuel's “cash-flow” problem.

As Chaim was about to close his suitcase, the doorbell rang. “That must be Shmuel. Right on time! He's even two minutes early,” Chaim thought. When Chaim answered the door, he was surprised to find his *chavrusa*, Yaakov, standing there. Yaakov excitedly explained that he had just been asked to pick up the Rosh Yeshivah from the airport and that he could take Chaim — for free.

Thinking about all the money he would save, Chaim quickly went to call Shmuel to cancel the ride. But as he was about to call, he heard the sound of Shmuel's car honking, announcing his arrival. “Uh-oh! What do I do now?” thought Chaim. “I'd better call my Rav.”

During the few moments it took for his Rav to answer the phone, Chaim's mind quickly calculated what Shmuel's loss would be if he were to cancel the ride. Chaim reasoned that most likely there would be no loss at all. After all, Shmuel had probably not turned away any other jobs in order to take him. Hadn't he said that no one called him on his day off? Chaim reasoned that Shmuel could only have one complaint — he had wasted his time coming to the house. Chaim decided that offering Shmuel \$10 would take care of that. As far as the \$75 Shmuel had been expecting to earn, Chaim felt badly about that. Then again, why should he pay an extra \$65 for nothing?

The Rav answered the phone. After Chaim explained the situation, the Rav told him that the answer to his question could be found in the *Shulchan*

Aruch, Choshen Mishpat 333:2. It states that when a worker begins his journey to the workplace, he is considered to have begun working for his employer, and once the work has begun, the employer becomes obligated to proceed with the job at hand or pay adequate compensation to the worker for the entire job.

Generally speaking, “adequate” compensation is less than full compensation because a worker is usually willing to accept a lesser sum if he will not be doing any actual work. This amount is usually set at

and still be entitled to the \$45 he was about to hand over. After all, Chaim was compensating Shmuel for denying him the right to earn a wage. Now Shmuel had a way of replacing this lost wage by accepting the new job offer. Chaim felt that if Shmuel could work for somebody else, there would be no lost wage. In that case, why should he pay Shmuel anything?

Chaim quickly called his Rav a second time. After hearing the details of the new development, the Rav answered that this question was also discussed in *Choshen Mishpat* 333:2 and that the *halachah* agreed

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50 percent of the full wage, but a higher rate may be deemed equitable depending on the case. Thus, even though Shmuel would have suffered no real loss if Chaim had canceled the ride, Chaim remained obligated to pay him \$75, minus the amount forfeited because he would not actually be working. In essence, Shmuel acquired the right to earn his wages when he began to work for Chaim.

Chaim thanked the Rav for his time and expertise in Jewish monetary law. “If I had done what I thought was right instead of asking you, I probably would have held back money from Shmuel that was rightfully his. That would have been terrible!” he exclaimed. The Rav sighed and said, “I agree with you, Chaim. I agree.”

In order to apply what we have learned correctly, we must take this scenario one step further. A basic question exists concerning the extent of Chaim’s responsibility to compensate Shmuel adequately.

Chaim had just finished explaining his predicament to Shmuel, and they had agreed that Chaim would pay \$45 as adequate compensation. As Chaim was reaching for his wallet, Shmuel’s cell phone rang. It was his boss at the car service calling. He had called to ask if Shmuel would agree to drive into the city and deliver a package to a downtown office building. Chaim heard Shmuel say, “You know, boss, on any other day I would do it, but not on my day off. And now it’s rush hour. Traffic will be impossible! No, not even if you pay me double what I normally make. Sorry, boss. Maybe you can find someone else?”

Chaim started to think. He wondered whether it was Shmuel’s right to refuse this new job opportunity

with Chaim. The Rav added that although driving downtown to deliver a package likely entailed harder work than driving to the airport, nonetheless, it was an equitable substitute because Shmuel normally did that kind of work, and he would be fairly compensated. However, the Rav advised Chaim that even though the letter of the law allowed him to withhold the \$45, in all likelihood doing so would cause Shmuel to harbor a complaint in his heart against him.

“Sometimes,” the Rav said, “demanding your rights is not always right. I think that \$45 is a small price to pay for the sake of peace.” Chaim agreed.

How often do we find ourselves in situations similar to this one? Are we equipped to handle them as the Torah mandates? Chaim was fortunate to be able to pose his *Choshen Mishpat* questions to a knowledgeable Rav. However, let us give credit where credit is due. Chaim understood that the Torah thoroughly addresses these issues and that he had a responsibility to find out what the Torah says about them. Knowing enough to ask is half the battle.

Rabbi Tzvi Price is a halachic writer for Machon L'Choshen Mishpat. This article is part of Machon L'Choshen Mishpat's campaign to raise public awareness of common halachic monetary issues that arise in our daily lives. The Machon, which is headed by Harav Chaim Kohn, organizes *shiurim*, seminars, and other learning programs on *Choshen Mishpat*. For questions, comments, or additional information, please call 1 (877) MISHPAT (647-4728) or email info@machonmishpat.com.