



UNDER THE AUSPICES OF HARAV CHAIM KOHN, SHLITA



STORY LINE

By Rabbi Meir Orlian

NEW MOTOR The Frieds' air conditioner was not working. A technician came and examined it. "It seems that the fan motor went," he said. "I'll have to replace it. The part will cost \$125 and the labor another \$150."

The technician installed a new motor, but the air conditioner still didn't work. He examined the unit some more, but could not resolve the issue. "Very strange," he said. "I'll have to send someone else."

Meanwhile, Mr. Fried called another technician that he knew. "Our air conditioner is not working," he said. "Someone already replaced the fan motor, but didn't solve the problem."

"I'll come take a look," said the second technician. He examined the wiring of the unit carefully. "I think I found the problem," he said. "It's something in the electrical system." He fixed it, and the unit worked!

"There was no need to replace the motor?" asked Mr. Fried.

"The problem was unrelated to the motor," said the technician.

Mr. Fried called the first technician. "Another technician was able to fix the unit," he said. "The electrical system was the problem, not the motor. Can you put the old one back?"

"I already disposed of it," said the technician. "Anyway, once I installed the new motor, I can't return it. I'll charge you only the cost of the motor."

"Why should I have to pay anything?" asked Mr. Fried. "You replaced a part that wasn't necessary to replace!"

"I did what any technician would do," replied the technician. "There's no reason I should lose the cost of the motor. I could charge you also for the service call!"

The two came before Rabbi Dayan. "Does Mr. Fried owe the cost of the motor?" asked the technician. "What about the labor?"

"The *Gemara* (B.K. 99b) teaches that a paid professional who was not careful in his work is liable for damage he caused to the item," replied Rabbi Dayan. "Even when not liable for damage, e.g., it is unclear whether the damage resulted from carelessness, he is still not entitled to his wages" (C.M. 306:4-6; Sma 335:9).

"Moreover, when the work is predicated on accomplishing the goal, such as appliance repair," continued

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RIBBIS DEVARIM – SAYING THANK YOU

In the previous issue we discussed

the prohibition of *ribbis devarim*. *Ribbis devarim* involves *ribbis* with words. The *Mishnah's* example (B.M. 75b) is a borrower who offers valuable information to the lender. Included in this prohibition is praising the lender or greeting him first when the borrower was not in the habit of doing so. I have the following inquiry:

Q: In light of the prohibition of *ribbis devarim*, is it permitted for me to say "yasher koach" or "thank you" to my lender? I am concerned that if I do not thank my lender he will consider me rude or will be insulted if I don't follow what is seen as simple etiquette to thank him for issuing me a loan.

A: *Poskim* debate whether it is permitted for a borrower to say "yasher koach" or "thank you" to his lender. *Shulchan Aruch Harav* (*Ribbis* 9) prohibits a borrower from praising, thanking, blessing or otherwise expressing appreciation to his lender for issuing the loan or extending the term of the loan. When a borrower needs an extension to his loan he may not preface his request with words of praise about how kind and generous the lender is. He must ask the lender for a favor without expressing admiration or the like in order to secure an extension.

Based on this there are *poskim* who rule that a borrower may not thank or say "yasher koach" to his lender (*Minchas Shlomo* 2:68; *Igros Moshe*, Y.D. 1:80; *Keren HaTorah* 160:43). The Chazon Ish, it is reported, would inform people before he gave them a loan that they must not thank him for the loan (*Orchos Rabbeinu*, vol. 4, p. 65).



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Rabbi Dayan, "even if circumstances beyond the worker's control prevented him from completing the task, he is not entitled to his wages if the employer didn't benefit from his efforts. However, if the employer benefited from the partial job, he has to pay for the part that was done" (*Nesivos* 335:3; *Pischei Choshen*, *Sechirus* 12:25-26; *Piskei Din Yerushalayim* vol. VI, p. 30).

"There was no benefit here," said Mr. Fried.

"Although the technician did not succeed in repairing the air conditioner, he improved it by installing a new motor," replied Rabbi Dayan. "A motor has an expected lifetime; in a number of years the old motor might have had to be replaced, anyway. The new motor is expected to work for many more years.

"Thus, the installation of the new motor is a repair that was not warranted, but did add value to the unit," added Rabbi Dayan. "When someone does work that partially increases the value of an item, he gets reimbursed for his expenses, in accordance with the increase in value" (*C.M.* 306:3; 375:1, 6; *Nesivos* 375:2).

"So I have to pay him the \$125 for the motor?" asked Mr. Fried.

"Not the full value, since the increase in value is not the full cost of the motor," answered Rabbi Dayan. "The old motor could have continued working for a few more years. Furthermore, other problems with the air conditioner might require replacing it entirely in the future, well during the lifetime of the new motor. I would say \$75 or \$100, which would cover also part of the labor if the motor would have needed to be replaced in the future."



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On the other hand, many *poskim* contend that *Shulchan Aruch Harav's* restriction does not include expressions of thanks that conform with customs of etiquette. In our time, saying "thank you," or a similar expression of appreciation is a simple form of etiquette and is permitted. The restriction is limited to giving thanks and expressing appreciation in a manner that goes beyond the minimal standards of etiquette. This is especially true in our time when people say "thank you" for all sorts of minor things, and the "thanks" does not imply importance like greeting the lender first, which *Chazal* ruled was prohibited.

For example, customers who make a small purchase will say "thank you" to the storeowner even though there is no more reason for the customer to thank the storeowner than there is for the storeowner to thank the customer since they both benefit from the transaction (*Minchas Shlomo* 1:27 [although he subsequently retracted his opinion after considering S.A. Harav's position]; *Chamudei Efraim*, p. 126, quoting the Shinever Rav, zt"l; *Nesivos Shalom*, p. 107. See also *Chelkas Binyamin* 160:108).

Some *poskim* write that one could avoid the question by simply thanking the lender for his efforts rather than thanking him for the loan (*Mishnas Ribbis* 4:20).

However, it should be noted that one who borrows money from a community *gemach* may thank the treasurer, because the treasurer is not the lender and the prohibition applies specifically to a borrower/lender transaction. In contradistinction, when someone lends his own private money as a *gemach*, thanking him would be subject to the above dispute.

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MONEY MATTERS

RENTALS #14

Notice of Termination

(Adapted by Rabbi Meir Orlian from the writings of Harav Chaim Kohn, shlita)

Q: Is it necessary to give notice before terminating a rental?

A: If the rental agreement does not specify a termination date, *Chazal* required the landlord and tenant to give notice before terminating the rental, so that the tenant should not find himself homeless and the landlord should not miss rent (unless the tenant provides an alternate tenant).

However, if the contract specifies an end date, *Chazal* did not require further notice of the conclusion of the rental. Each party is expected to make arrangements beforehand (*C.M.* 312:5-8). *Chazal* stipulated notice terms of 30 days, half a year, one year or three years, depending on the nature of the property and the season. Contemporary *poskim* indicate that the required time varies with era, location and common practice. (*Maharashdam*, *C.M.* #286). The obligations of tenant and landlord may differ, depending on the supply-and-demand forces of rental. Most rental agreements nowadays require notice of a month or two; many also include automatic renewal clauses when notice is not given.

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