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HaRav Chaim Kohn, shlita



Restoring the Primacy of Choshen Mishpat

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STORY LINE

by Rabbi Meir Orlan

Halacha Writer for the Business Halacha Institute

Dishonest Discount

As Avrumi perused the signs on the bulletin board of his yeshiva (school), he saw a new sign posted by the office: "We have arranged a 10-percent discount for our talmidim (students) at the local sefarim (Jewish book) store, Olam HaSefarim. Please register at the store to get your discount card." A few weeks later, Avrumi showed some sefarim that he had bought to his cousin Ruby, who was visiting from another town.

"They look like wonderful sefarim," Ruby said. "How much do they cost?"

"The set regularly costs \$50," said Avrumi. "Our yeshivah is entitled to a 10-percent discount at Olam HaSefarim, though, so it cost me only \$45."

"That's great," said Ruby. "Can you pick up a set for me? I'll give you \$45."

"I'm not sure that I can do that," said Avrumi.

"Why not?" asked Ruby. "Isn't the store near your yeshiva?"

"I'd be happy to get the sefarim," Avrumi replied. "I meant that I wasn't sure I can get the discount for you."

"What's the problem?" said Ruby. "Don't say that you're buying it for me!"

"But that's not honest," said Avrumi. "You're not entitled to the discount."

"As long as you buy the sefarim, you can get the discount," said Ruby. "What's the difference what you do with the sefer afterward?"

"If I'm buying it for you and utilize my discount, then I'm cheating the storeowner," said Avrumi. "He only offered the discount to talmidim of our yeshiva, not to other people."

"I think you're being unnecessarily scrupulous," said Ruby. "The store is still earning

a nice profit!"

"That's irrelevant," said Avrumi. "I'd like to introduce you to Rabbi Dayan, though. We can ask him!"

The two went to Rabbi Dayan's beis medrash. Avrumi explained the situation and asked: "Can I utilize my discount at Olam HaSefarim to purchase the sefer for Ruby?" "You are not allowed to," answered Rabbi Dayan. "If a seller provides special discounts to certain customers, they are intended for those customers alone. It may be on account of some subsidy, a consideration of the institution, a desire to benefit a particular customer group, or a targeted advertising means."

"Someone who abuses this privilege to buy for others who are not entitled to the discount is guilty of theft, unless allowed by an authorized person, such as a sales manager."

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Moving Out

Submitted by N. T.

Reuven leased an apartment for two years. After a year and a half, he decided to move.

Q: Is he obligated to continue paying the monthly rent until the end of the contract?

In the event that there was no lease, may the landlord demand that Reuven continue to pay his rent until he can find another tenant?

other tenant?

A: When a written lease is signed, the tenant is obligated to fulfill the terms of the lease and is thus obligated to pay rent until the end of the lease, regardless of whether he remains in the apartment or not.

In the event that the landlord has another tenant who is willing to move into the apartment, the present tenant is not obligated to continue paying his monthly rent (Ketzos

and Nesivos 316).

If there was no active lease and the tenant wishes to move, he must give notice to the landlord of his intent so that the landlord can find a replacement tenant (C.M. 312:7). If the tenant does not give the landlord proper notice, he must continue to live there and pay rent so that he does not cause the landlord a loss.

In the event that the tenant moves out in violation of halacha, there is a dispute whether

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er (Pischei Choshen, Geneivah 1:11)."

"But I know a lot of people who do that," said Ruby. "Doesn't that say something?"

"Sometimes, what people do is indicative of a common commercial practice, minhag hamedina," said Rabbi Dayan. "Unfortunately, many people rationalize forbidden behavior when it comes to money. The Gemara (B.B. 165a) notes that the majority of people are tainted with theft. Rashi explains that most people do not act completely honest in business and rationalize in order to withhold due profit from another."

"What if I wanted to buy a sefer as a gift for someone else?" asked Avrumi. "Could I use my discount for that?"

"That would be perfectly permissible, since you are buying it for your purpose — to use as a gift — even though you will give it to someone else," said Rabbi

Dayan. "That is different from your case, though, where you are simply buying the sefer on behalf of another person who is not entitled to the discount."

"What about club cards and the like that afford discounts or sales prices?" asked Ruby. "I assume those would be the same?"

"If the store is restrictive in offering the club card and is insistent that the cards are for individual use only, it would be the same," said Rabbi Dayan. "However, if the club card is freely available to everyone, and the sole purpose of the card is to promote regular patronage of that store, it is permissible to use for others. This is true even if the card states on it 'nontransferable' for various legal reasons, since the store is willing and interested here to encourage purchases through the discount by any customer (see Mishpetei HaTorah, B.K. #95)."

he is obligated to continue paying rent for the reasonable amount of time it takes a landlord to find a replacement tenant.

One approach maintains that he is not obligated to pay since they never had a binding agreement stating how long the tenant would remain in the apartment. Although the landlord will lose rent money he expected to earn, that loss is indirect (grama) and the tenant cannot be forced to pay that loss. L'chatchila the tenant is not permitted to cause the landlord an indirect loss, but once he moved out, he cannot be compelled to pay for that loss (Shaar Mishpat cited in Pischei Teshuvah 312:4).

An alternative perspective is that the tenant is obligated to pay. Once he leased the

apartment, he is obligated to abide by standard conditions of a lease. Included is the obligation to inform the landlord before vacating the apartment and to continue to pay for the duration of this period. Consequently, if he moved out without giving proper notice to the landlord, he is obligated to pay rent for the reasonable amount of time it takes a landlord to find a replacement tenant (Nachalas Tzvi; see also Erech Shai 312:14).

Practically, these matters are dictated by custom; for all practical purposes, local real estate law determines the amount of advance notice necessary before a tenant may leave an apartment. If a tenant leaves without giving advance notice, he must pay rent for that time.

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Damages #16

Q: In a "territorial" dispute between two competing businesses, one party got a crime family involved who caused monetary damage to his competitor. What is the halachic perspective?

A: Exposing a fellow Jew's property to a gentile strongman is a grave sin, known as mesirah (informing). Even if the potential harm is only monetary, there is serious concern that

it could easily snowball into physical harm, and even a danger to life. A person who is moser forfeits his share in Olam Haba, is disqualified from giving testimony, and is sometimes considered a rodef, one who threatens someone's life (C.M. 388:8-11).

A moser who caused his fellow Jew a loss through a strongman, whether gentile or Jewish, is liable for the damage that he caused. Many include this under the category of

garmi, while others consider it a penalty imposed by the Sages. Nonetheless, he is liable even on the basis of his own admission (C.M. 388:2, 8; Pischei Choshen, Nezikin 4:8).

A person who was coerced to inform about his fellow's property, whether under threat of death or physical harm, is exempt. There is a halachic dispute if he was coerced monetarily and informed against his friend to spare himself loss (C. M. 388:2-3; Shach 388:22).

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