

Business weekly

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STORYLINE

Pesach cleaning

By Rabbi Meir Orlan, Yerushalayim
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"Pesach is just around the corner!" was Mrs. Adler's motto. Pesach cleaning started well in advance, and its star was her trusted Hoover canister vacuum cleaner. It was expensive, but its powerful suction and versatility made it worthwhile for Pesach.

One morning, while Mrs. Adler was vacuuming, the doorbell rang. "C'mon in, Sally," she called to her closest neighbor, Sally Baum, who lived down the hall.

"How's Pesach coming along?" asked Mrs. Baum.

"So far, I've managed to keep on schedule," replied Mrs. Adler. "I hate the last minute rush!"

"I just wish I had a better vac," lamented Mrs. Baum.

"Mine is great," glowed Mrs. Adler. "You can borrow it tonight."

In the evening, Mrs. Baum sent her son to pick up the vacuum. Armed with the vacuum, she went around the edges of the rooms, poked with the crevice tool behind the cabinets, and started to clean the couch.

"Hi, Sally," she heard her husband's voice.

Mrs. Baum looked up. "Welcome home," she replied. "You know that Mrs. Adler always says, 'Pesach is just around the corner!' Well, now it really is, and she was kind enough to lend us hers for the evening. Come have supper."

After supper, Mrs. Baum continued vacuuming. Without warning the vacuum suddenly sparked and the electricity blew! "What happened?" called out Mr. Baum. "I'm not sure," answered his wife. "It seems that the vac blew the fuse."

Mr. Baum unplugged the vacuum and re-

placed the fuse. "That was strange," he said. "We never have problems with the electricity."

"Back to work," hummed Mrs. Baum as she plugged the vacuum in. She pressed the button ... but nothing happened. She pressed again, with no response. She tried a different outlet; still nothing.

"The motor died," groaned Mrs. Baum. "How am I going to face Mrs. Adler? She relies on this machine like anything!"

"We'll have to buy her a new one," said her husband. "We can't afford this now, but we have no choice." Mrs. Baum walked down the hall to the Adlers with the broken vacuum and \$500.

Mrs. Adler greeted her, "Finished already, Sally? You're fast!"

"I'm really sorry, but the vacuum broke," said

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FROM OUR HOTLINE

the wedding dress

Submitted by
H. Rothstein

A woman orders a dress from a dressmaker for a wedding, being very specific about the material, color, and style of the dress. At the first fitting, the woman is unhappy with the way the dress looks, although it is exactly as she ordered it. The dressmaker makes the requested alterations. After this scene repeats itself several times, the woman decides

to purchase a dress rather than have one custom-made. The dressmaker expects payment for the dress. The customer argues that she should not have to pay, since she isn't taking the dress.

Q: Does the dressmaker have a halachic right to demand payment?

A: Shulchan Aruch (Choshen Mishpat 333:8) presents this case: a person tells a craftsman, "Make for me an object and I will purchase it from you." The item is created, and the customer decides not to make the purchase. Shulchan Aruch rules that although the customer no longer wants the object, he must pay the craftsman if refusing delivery of the

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STORYLINE CONTINUED

Mrs. Baum.

"Please tell me you're kidding!" said Mrs. Adler. "I'll never manage without my vac."

"Really, it's broken," said Mrs. Baum. "I was using it and it just went. But I brought you money to buy a new one."

Mr. Adler walked over. "Is there a chance that you overtaxed the machine? Sucked up something that clogged the airflow?"

"No," said Mrs. Baum. "I was using it normally. But what's the difference? When you borrow something you're responsible no matter what."

"That's usually true," said Mr. Adler. "However, I remember learning that if the item breaks or dies through normal usage the borrower is exempt. I'll ask Rabbi Dayan at the Daf tonight."

After the Daf, Mr. Baum walked home with Rabbi Dayan and asked about the vacuum. "You are correct," replied Rabbi Dayan. "When you borrow something you are responsible even for freak accidents, but if it dies or breaks on account of the work for which it was borrowed – you are exempt. This is called *meisa machamas*

melacha." (C.M. 340:1)

"Why should this be?" asked Mr. Baum.

"The Gemara (B.M. 96b) explains that the owner lent the item with the understanding that it be used; therefore, he accepted the consequences of this usage," answered Rabbi Dayan. "However, there are two caveats. First, the borrower is exempt only if he used the item for the purpose for which it was lent, but if he used it in even a slightly different manner he is responsible. He does not need to buy a brand new machine, though, but only to pay for the actual loss. (344:2)"

"The second caveat," continued Rabbi Dayan, "is that the borrower must prove with witnesses or take a severe oath in Beis Din that the item broke during the course of work to be exempt, unless the lender completely trusts him." (344:1)

"Thus, if you trust Mrs. Baum that the vacuum died during routine use, she is exempt," concluded Rabbi Dayan. "If she wants to pay something as a neighborly gesture, that's fine, but it's important to know the halacha!"

FROM OUR HOTLINE CONTINUED

item will generate a loss for the craftsman. Nesivos Hamishpat (333:15) questions why the customer is liable only when it will generate a loss for the craftsman. Shulchan Aruch elsewhere (336:2) rules that once a hired worker performs his task, he must be paid even if it turns out that he was hired to work with ownerless property. Accordingly, if the craftsman did his job by making the item, the customer should have to pay him regardless of whether there is a loss. Nesivos answers that there is a difference between hiring a worker and our case where the customer did not hire the craftsman; he merely com-

mitted himself to purchase the completed item. Since the craftsman was not working as an employee, he cannot expect to be paid for an object if it was not sold. He is to be reimbursed for his loss since it is categorized as *garmi* – indirect damage for which one is liable.

Based on these concepts, the amount the dressmaker will be paid depends on the language used when she was hired. If she was an employee, she should be paid the full value of the work she performed. If she sewed the dress so that the woman would purchase it from her, she should only be reimbursed for her loss.

Please email us with your questions and comments at ask@businesshalacha.com

HALACHA CORNER

proper pricing week #2

Q: Can I charge one price for immediate cash payment and a greater amount for credit or payment in installments?

A: This common question of two-tiered pricing relates to the issue of *ribbis*, interest. Payment for an item is due upon consummation of the sale, and there-

fore the price quoted for immediate cash payment is typically viewed as the "true price." Therefore, if the vendor charges more for credit or payment in installments, he is considered as charging interest for the delay in payment. According to most authorities, a *heter iska* would be required to allow such a pricing system. Otherwise, one is only allowed to pay the lower, im-

mediate cash price. [There are some authorities, though, who maintain that if the credit price clearly reflects the true market price, and the cash price is a discount from the true price, it is allowed. (Chochmas Adam 139:5)] In any case, it is permissible to quote a single price, allowing for credit or payment in installments.

recent/upcoming activities

QUEENS, NY

February 15th:

50 *Rabbonim*,
4 *Dayanim*,
One Message

TORONTO

March 21st:

Kinyanim/Selling
Chametz -
How It Works

WEEKLY STUDY SESSIONS

Flatbush, Passaic,
Far Rockaway/Lawrence,
Montreal,
Chicago & other cities

Document Drafting:

Halachic Wills, Iska, Shabbos Contracts

Business Consultation:

Ribbis Issues, Shabbos Issues and more...
Published Articles, Industry Seminars etc