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STORYLINE

portion control

By Rabbi Meir Orlian

Halacha Writer for the Business Halacha Institute

We would like to provide a "taste" of the Korban Pesach with a relevant Choshen Mishpat twist!

The Kadosh family made their way through the streets of rebuilt Yerushalayim. At 4:30 PM on Erev Pesach, the city was packed with multitudes of people who had come to offer the Korban Pesach.

"With whom are we joining this year for the Korban Pesach?" asked young Zev.

"The lamb we bought can easily provide a kezayis (olive size) portion for 40-50 people," said his father. "Saba and Savta will be with us, of course, as well as Uncle Shia, Uncle Elimelech and their families. Our neighbors, the Essens, asked to participate again in our Seder. The Goldfarbs will make their own Seder."

As the Kadoshes walked toward the Temple

Mount, the enticing smell of roast lamb wafted from the houses of those who had participated in the first wave of sacrifices. Others, from the second wave, were exiting the Temple carrying their slaughtered lambs.

"We'd better hurry," urged Mr. Kadosh. "The third and final wave is usually small and goes quickly (Pesachim 64b)."

"You said the Essens will be eating at our Seder, correct?" asked Zev.

"Yes," Mr. Kadosh responded. "Why?"

"The Essen boys have all got very healthy appetites," said Zev. "Last year, they kept carving doubles and triples from the Korban Pesach! In the end, the rest of the group just got the minimal kezayis."

"We already agreed to have them at our Seder," Mr. Kadosh responded calmly. "It's not polite to ask them to form a separate group and make their own Seder."

"Maybe we should insist that they cut off their fair share up front when it's time to eat," Zev suggested. "That way they won't be able to take more than they deserve."

"I'm not sure whether a single Seder group can split," said Mr. Kadosh. "But look! I see Rabbi Tzedek; maybe he has an idea."

Mr. Kadosh introduced himself to Rabbi Tzedek and asked: "If some of the members of the group tend to eat more than their fair share, can we require them to cut off their portion before they begin eating?"

"This very point is addressed in Gemara Pesachim (89b)," answered Rabbi Tzedek. "Generally, people joining in one Seder share the Korban Pesach freely as they eat. Ideally, they should not cut off a part to separate a member of the group. However, if the person is known to have a very hearty appetite, the other members can require

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FROM OUR HOTLINE

Submitted by
L. T.

non-negotiable

I was at my friend's house as she prepared for a guest. Noticing that the dining room tablecloth was worn out, she gave me \$140 and said, "The store down the block has a tablecloth in their window for \$140. Please go buy it." I went to the store and bargained with the owner until he agreed to sell it for \$130. I thought my friend would be pleased, but when I told her, she said that since she was prepared to pay \$140 and I was not au-

thorized to negotiate the price, maybe I had wronged the merchant. I told her that her concern is ridiculous, but she suggested that I consult you.

Q: Is my friend right about this?

A: Your friend's concern isn't ridiculous at all. The Gemara (Bava Metzia 76a) discusses an employer who sends an agent

to hire workers at a rate of four zuz per day. The agent tells a potential employee that he will be paid three zuz per day, and he accepts the job. If the worker discovers that the boss was willing to pay four zuz, he does not have the right to demand the extra zuz that the boss was prepared to pay, since he agreed to work for less. He does, however, have the right to bear a grudge (tar'omes) against the agent for withhold-

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STORYLINE CONTINUED

him to take his share separately. He cannot claim that they already accepted him to eat freely as part of the group (Rambam, Hil. Korban Pesach 2:15)."

"Wow!" exclaimed Zev. "It's great learning the laws of Kodashim now that the Beis Hamikdash has been rebuilt!"

"Actually, this law applies also in day-to-day life," replied Rabbi Tzedek.

"Really?" asked Zev. "How?"

"Let's say that a group of people is going on a trip, and they agree to share equally in food expenses," explained Rabbi Tzedek. "Each person is entitled to eat and drink freely, and they do not measure whether one got more than the others. However, if someone is known to have an exceptionally healthy appetite, the other people can insist that he separate his apportioned share and eat only that (Rama C.M. 176:10).

"Similarly, let's say that roommates agree to chip in for a canister of jelly beans for the week or a box of cookies for Shabbos. If one of them proves to have a

very sweet tooth and takes more than his fair share, the others can insist that he separate his portion at the beginning and eat only that."

"If he did eat more than his fair share before they separated his portion," asked Zev, "can they make him pay for the amount he ate beyond that?"

"No," answered Rabbi Tzedek, "because as long as the food remains jointly owned by the entire group, each person is entitled to eat what he desires (Pischei Teshuva C.M. 176:11)."

"I don't think it's right to take triples before everyone has had doubles, though," said Mrs. Kadosh.

"You are right that it is not proper manners," said Rabbi Tzedek. "People who are eating together should be respectful of each other and not eat while the others have paused (Orach Chaim 170:2). But, as we said, if someone behaves inappropriately and eats significantly more than his fair share, the other members of the group can insist that he separate his portion."

FROM OUR HOTLINE CONTINUED

ing money that his employer was prepared to pay. The basis of this right is derived from the pasuk in Mishlei (3:27) which states "Al timna tov miba'alav" - one should not withhold good from its rightful recipients. The Ritv" asks why the Gemara focuses on the good withheld from the worker and not the employer. Shouldn't an agent aim to benefit his employer? If someone agrees to work for three zuz, why shouldn't the agent save his employer money? He answers: since the employer decided on the rate and didn't ask his agent to negotiate, it was not the agent's place to generate a benefit for his employer at the expense of the employee. Thus, if your friend had only given you a limit on how much to spend for the tablecloth, it would be okay to bargain; it may even be expect-

ed that you spend as little as possible. However, since your friend decided on \$140, you were not authorized to bargain and the seller can bear a grudge against you. On the other hand, there may be a distinction between cases with employees vs. store-owners. With employees, we assume that the employer may choose to pay a higher salary to assure that his employees perform with great diligence, so the agent is not allowed to negotiate their salary, as that may be harmful to the employer. The employee may bear a grudge against the agent for depriving him of this incentive. In contrast, when buying merchandise, this consideration does not apply. We assume that one would always be happy to pay less for an object, and the seller would not have the right to bear a grudge.

Please contact our confidential hotline with your questions & comments

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MONEY MATTERS

unfair pricing week #1

Q: What are the guidelines of ona'ah?

A: The Torah commands: "When you sell to your fellow or purchase from the hand of your fellow, do not aggrieve one another" (Vayikra 25:14). Sellers and buyers are admonished not to deceive or cheat the other party of a fair market price. If an item was overpriced, the buyer can claim ona'ah; if an item was underpriced, the seller can

claim ona'ah (C.M. 227:1). Chazal determined that ona'ah is calculated by a price differential of 1/6. If the differential was less than 1/6, we presume that the aggrieved party was mochel and has no claim. If the differential was 1/6, the sale remains valid, but the differential must be refunded or paid. If the differential was greater than 1/6, the aggrieved party can invalidate the sale. The 1/6 is measured both in respect to the fair

market price and the price paid. Thus, if an item typically costs \$60, the buyer is entitled to a refund of his overpayment whether he paid \$70 (1/6 of the value) or \$72 (1/6 of the price paid). The seller is entitled to additional payment whether the item was bought for \$50 (1/6 of the value) or \$51.43 (1/6 of the price). If the price gap was less than this, there is no claim of ona'ah; more than this, the sale can be invalidated (227:2-4).

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