



Business

a project of the Business Halacha Institute

weekly

PARSHAS V'ESCHANAN
FRIDAY, JULY 23 2010
VOLUME 1 ISSUE 18
under the auspices of
Harav Chaim Kohn, shlita

Business Weekly has
been dedicated

לע"נ הרה"ח ר' נחמיה ב"ר שלמה אלימלך ז"ל
by his son, R' Shlomo Werdiger

STORYLINE

help wanted

By Rabbi Meir Orlan, Yerushalayim
Halacha Writer for the Business Halacha Institute

"Annie, the basement has to be cleaned because we're having guests for Shabbos," Rivki Rosen instructed her cleaning lady. It was only Monday, but Annie worked for other families the rest of the week.

"Shmuel, it would be really helpful if Annie could come twice a week," Mrs. Rosen said to her husband that night. "She spends the whole time cleaning and has no time to do the laundry. What she does clean is dirty again by Shabbos, so I have to clean again myself.

"Annie cleans a different house each day. Wouldn't she prefer to have one house twice a week?"

"I'm sure she would. Why don't you ask her?" Mr. Rosen suggested. "If we offered her more money, she would probably agree to drop her current Thursday job.

"Also," he added, "remember that we need

to hire a tutor right after the summer. Aharon needs help with Gemara before he enters seventh grade."

"Did his rebbi have any recommendation?" asked Mrs. Rosen.

"Aharon needs someone who will get him excited about learning," said Mr. Rosen. "His rebbi recommended Baruch Stein, because he felt that Aharon would progress best with him. The problem is that he's tutoring someone else this year and doesn't have time for another boy. Baruch told me that they expect him to continue next year as well."

"We can try paying Baruch more," suggested Mrs. Rosen. "If we offer him an extra \$10 an hour, maybe he'd agree to tutor Aharon instead."

"You're probably right," said Shmuel. "I'll give him a call now."

He picked up the phone. "Hello, Baruch? This is Shmuel Rosen."

"Oh, hi," said Baruch. "Were you able to find a tutor for Aharon?"

"Actually..." Mr. Rosen hesitated. "I strongly feel that it's really important for Aharon to have you, and we'd be willing to offer an extra \$10 an hour."

"I very much appreciate the offer," said Baruch, "but I'm not comfortable about leaving the other people who are expecting me to continue. I assume you've heard of the concept of 'ani hamehapech bacharara'? When someone is scavenging, another may not come and interfere with his efforts."

"Sure," replied Shmuel.

"Please check with Rabbi Dayan whether the concept of ani hamehapech applies here before we make any decisions," said Baruch. "Ask if you can intrude upon an em-

continued on reverse side

FROM OUR HOTLINE

Submitted by
G. Wieder

mandatory maintenance

We're in the middle of a two-year lease for an apartment and we don't know if we can make it to the end of the lease. Since we signed the contract, the oven broke, the showerhead leaks, and the ceiling fan – which was essential since the air conditioner is slowly dying – stopped spinning. We've tried to contact the landlord many times, but he has yet to respond in any sub-

stantial way. He tells me he'll look into it, his maintenance guy will come tomorrow, etc. etc.

Q: We feel like there is nothing we can do to force him to make these repairs. Is there anything we can halachically do to remedy this miserable situation?

A: Shulchan Aruch (Choshen Mishpat 312:17) discusses the responsibility of a landlord to provide a replacement residence for a tenant in the event that the house collapses. In that discussion, Shulchan Aruch mentions that if the house is still basically intact but dangerous to live in, the landlord is obligated to make the necessary repairs. One caveat Shulchan Aruch adds to this

continued on reverse side



Regal Photographers
Priceless Memories

Dov Berg 732-905-9047
dovberg@optimum.net

To place your logo
here, email
info@businesshalacha.com

STORYLINE CONTINUED

ployment agreement and solicit someone else's worker."

"I understand the problem," said Mr. Rosen.

He called Rabbi Dayan. "Hello, this is Shmuel Rosen. We need a Gemara tutor for Aharon next year. The rebbe recommended Baruch Stein, but he is working for another family and doesn't have time for both boys. We are willing to offer Boruch extra, but he questioned whether it would be considered ani hamehapech to solicit him."

"That's a fascinating question!" exclaimed Rabbi Dayan.

"Now that I think about it, we have the same issue with our cleaning lady, Annie," Mr. Rosen added. "We would like her to give us an extra day of work, but she is booked with other people."

"There may be a difference between the two cases," said Rabbi Dayan.

"How's that?" asked Shmuel.

"Tosfos, cited by the Rama (C.M. 237:2), seem to extend the idea of ani hamehapech to seeking employment," explained Rabbi Dayan. "Nonetheless, they per-

mit you to solicit a melamed who is employed elsewhere if you think that your son will learn best with him."

"Why is this?" asked Mr. Rosen.

"Well," answered Rabbi Dayan, "many base this leniency on the opinion of Rabbeinu Tam that ani hamehapech applies only when there is a comparable alternative available (C.M. 237:1). A successful Jewish education is vital, so securing an appropriate teacher is considered something without a comparable alternative (SM)A 237:8; Nesivos 237:2). Others explain, however, that the leniency is because ani hamehapech does not apply to issues of mitzvah like Torah learning (Aruch Hashulchan 237:5)."

"What about Annie?" asked Mr. Rosen.

"You should find another cleaning lady for Thursdays," said Rabbi Dayan. "If there is no alternative available, according to the first explanation there is a possibility of soliciting Annie even though she will have to leave her present post (See Avnei Nezer IV:17)."

FROM OUR HOTLINE CONTINUED

halacha is that he must make the repairs if he received rent money in advance. Sema (312:32) suggests that the additional stipulation means: if the landlord received rent money in excess of the rent that was due to that date (i.e. he took three months' rent up front and the tenant has only been in the apartment for two months), the landlord must use those additional funds to make the necessary repairs.

Nesivos Hamishpat (312:11) suggests a different interpretation. In the agreement between the two parties, the landlord committed to rent only this particular apartment – 'bayis zeh'. This means that the rent, which is a byprod-

uct of the apartment, must be applied towards the maintenance of the apartment. As such, not only when the tenant paid rent in advance must that money be used to repair the apartment, but even if money was not paid in advance, the tenant has the right to withhold future rent payments to cover the cost of repairs.

Accordingly, if you contacted your landlord to make repairs that are his obligation and he does not make those repairs, you have the right to make the necessary repairs and pay for them with your monthly rental payments.

**Please contact our confidential hotline with
your questions & comments
877.845.8455 ■ ask@businesshalacha.com**

MONEY MATTERS

truth in advertising week #4

Q: Can I avoid notifying customers about specific defects in my merchandise by making a general disclaimer, e.g. "These refurbished products perform properly, but may have fine cracks, weak connections, internal rust, chipped paint, missing screws, and/or broken plastic casing"?

A: The Gemara (Bava Metzia 80a) teaches that if someone who is selling a cow tells the customer, "This cow has a tendency to gore, bite, kick, and lie down [during work]," and the cow had only one of the imperfections included in the list, the customer can still void the sale with a fraud claim. Although he was notified of the fault, the customer did not take the seller seriously since he was

presented with an entire list of faults – the rest of which were clearly untrue. Therefore, we cannot assume that he waived his rights and accepted the defect that proved true. However, if some of the faults are visibly factual, the disclaimer is valid even for faults that are not visible, since the customer saw that there was truth to the disclaimer (Shulchan Aruch, Choshen Mishpat 232:8).

ACTIVITIES

ONGOING WEEKLY STUDY SESSIONS

Passaic, Monsey, Flatbush, Lawrence, Queens, Montreal,
Chicago, Toronto, Miami

Article publications in 5 major Jewish newspapers • Weekly Halacha Emails
State-of-the-art website with free content on all topics and levels
Seminars • Business Services • Consultations • Mediation **and much more...**

This week's newsletter has been sponsored

לעלוי נשמת
ברכה בת ר' יצחק ע"ה
ט' אב

To sponsor a newsletter for \$180,
email info@businesshalacha.com

TO RECEIVE THIS NEWSLETTER FREE OF CHARGE, EMAIL SUBSCRIBE@BUSINESSHALACHA.COM

All new subscribers will receive a free copy of our popular publication, Money - The Bottom Line, in pdf form

Business Halacha Institute ■ 718.846.2501 ■ www.BusinessHalacha.com