



Business

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STORYLINE

Business Weekly has
been dedicated

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

rained out

By Rabbi Meir Orlan

Halacha Writer for the Business Halacha Institute

Springville Yeshiva Elementary (S.Y.E.) was finishing the school year. Their principal, Rabbi Rubin, had rented the premises of nearby Sunshine Day Camp for a day of sports activities. There would be a basketball tournament, volleyball matches and the annual softball game. To secure the grounds, S.Y.E. arranged with the camp a month ahead, and paid an advance payment of \$500.

The morning before the event, Rabbi Rubin listened to the weather report: "Showers expected tomorrow afternoon..." He consulted with the school's activities coordinator. "I hate to cancel the event," she said. "The kids look forward to it for weeks! Anyway, it's not supposed to rain until the afternoon. I suggest we leave it meanwhile, but please make arrangements with the JCC to use their indoor facilities if needed."

By late afternoon, however, the weatherman reported: "Rain expected throughout the day tomorrow..."

Rabbi Rubin sighed, "Another rained-out event." He confirmed with the JCC, and called Sunshine to cancel. He then sent them an official letter requesting a refund of the advance payment, since the event had been cancelled for reasons beyond their control.

A week later, though, S.Y.E. received a bill from Sunshine for the remaining \$1,000. Rabbi Rubin immediately called Mr. Meyers, Sunshine's director, to verify that the bill was issued by mistake. Mr. Meyers, however, insisted that there was no mistake. They had signed a rental contract of \$1,500 for the grounds, and the rain was not his fault either. Furthermore, after renting to S.Y.E., the camp had to turn away several requests

for the grounds by other parties.

Rabbi Rubin had expected the advance payment to be returned, but instead he was being asked to pay the remainder! He called Rabbi Dayan.

Rabbi Dayan heard the story and said, "The Gemara in Bava Metzia (76b-77a) discusses two cases that can serve as paradigms. In one, someone hired workers to dig ditches in his field the next day, but it rained heavily overnight, making the field too muddy to dig. In the other, someone hired workers to divert water from the river to his field but it rained overnight, rendering the job superfluous. When the workers arrived in the morning, they claimed their wages anyway, since it was now too late to employ themselves elsewhere."

"What is the halacha in these two cases?" Rabbi Rubin asked.

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FROM OUR HOTLINE

Submitted by
B. Berkowitz

spare change

I gave a \$10 bill to someone collecting tzedaka during shacharis. I expected to receive \$9 in change. After davening, I realized that he had given me eight singles and a \$5 bill – totaling \$13. I have no idea who the collector was have no way to track him down.

Q: What should I do with the extra \$4?

A: Shulchan Aruch (Choshen Mishpat 232:2) says that if one receives excess change, he is obligated to return it if the extra money was seemingly given in error and not if it was intentional. If money was grouped in tens and one received \$50 rather than \$40, we assume that the extra ten was given in error. However, if the extra was not consistent with the denomination that was being

exchanged, i.e. if tens were being counted and the recipient ends up with a number that is not a multiple of ten, e.g. \$47 rather than \$40, we assume that \$7 was given as a gift. Sema (232:7) says that the recipient may assume the extra was given as a gift even if he never met the person before. Accordingly, since the collector was counting out \$1 bills, it would seem that you may as-

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STORYLINE CONTINUED

"Rava ruled that the employer doesn't have to pay them, since the job had to be cancelled because of circumstances beyond his control, and both parties were equally aware of the possibility of rain. The workers should have realized that there was no point in coming, If they expected payment even in the case of rain, it was their responsibility to stipulate that in advance." Rabbi Dayan concluded: "Most poskim compare renting a property to hiring workers (C.M. 312:17, 334:1). They discuss a case in which uncontrollable circumstances render a rental impossible, e.g., the house collapsed or the renter died. The renter or his heirs do not have to pay for the unused part of the rental, unless there is a prevalent local practice otherwise. Thus, in the absence of a clear practice, you do not have to pay the \$1,000, since you were unable to use the camp grounds for reasons beyond your control. In the future, though, it would be best to specify this in the contract."

"What about refunding the \$500

advance payment?" asked Rabbi Rubin.

"That is a complicated issue," replied Rabbi Dayan. "It involves an intricate case in the Gemara (79a-b) about a shipping boat that sank en route. There are also many specific considerations: the amount and nature of the advance payment, the prevalent local practice, the likelihood that other renters would have sufficed with indoor facilities, and the degree to which the grounds became muddy and unusable. The question cannot be answered properly without hearing both sides of the story and investigating the issue thoroughly."

"So what should I do now?" asked Rabbi Rubin.

"Try to work things out with Mr. Meyers," answered Rabbi Dayan. "I recommend that you forego the advance payment or that they give you vouchers for it. If you and Mr. Meyers cannot reach a mutually satisfying arrangement, you should go together for a professional rabbinic consultation or turn to a beis din to adjudicate the matter."

FROM OUR HOTLINE CONTINUED

sume that he gave you the \$5 bill intentionally. Rema, however, adds that the custom today is to count each bill separately, so we assume that the \$4 was given in error and you must return it.

Since the collector is likely unaware that he gave you extra change, this is a case of yei'ush shelo m'daas – abandonment without awareness. Shulchan Aruch (CM 262:3) rules if one finds a lost object before the owner realizes it's lost, he must hold the object until the owner is located. This applies even if, as in your case, the owner would abandon hope of recovering the money when he realizes it's missing (Sema 262:9). You must hold onto the money until you return it to its owner, or until the arrival of

Eliyahu HaNavi who will identify the rightful owner (CM 262:4, 267:15). Poskim write that when the owner cannot be identified, one may mark down a description of the lost object. Once that information is safely stored, the finder is permitted to use, sell or discard the object. He will reimburse the owner when Eliyahu HaNavi arrives (CM 267:21, Igros Moshe Choshen Mishpat vol. 2 siman 45). Shulchan Aruch (CM 276:25) writes that when money is found, the finder may not use the funds for himself. Current Poskim, however, write that if the amount of lost money is readily available, the finder may record the amount and meanwhile use the money himself (Hashavas Aveidah K'Halacha ch.6 par. 3).

Please contact our confidential hotline with your questions & comments

877.845.8455 ask@businesshalacha.com

MONEY MATTERS

defective merchandise week #2

Q: I purchased a dining table for \$2,500 and it had a large, noticeable dent on one of the legs. What recourse do I have? What is the seller's responsibility?

A: If you purchase merchandise and find it defective, the sale is in error and void. You are entitled to return it for a full refund. This is true even if the seller was also unaware of

the defect (C.M. 232:3).

If the seller wants to refund \$1,000 and uphold the sale, you can insist that you prefer an intact item to a defective item at reduced cost. Similarly, if you want to uphold the sale and demand a discount, the seller can refuse and insist on cancelling the deal and returning the monies (232:4).

If the table can be completely repaired "as

good as new," such as if the leg is simply screwed in and an identical leg is available, the seller can opt to uphold the sale and pay for the repair.

However, if the leg is solidly attached to the table and replacing it would weaken the table, you can refuse repair and insist on a refund (232:5).

WEEKLY STUDY GROUP

Bankruptcy:

How to reconcile halacha and secular law

Monsey Night Seder Bais Medrash 29 Parker Boulevard **Sunday Mornings**
Chavrusos/Prep Shiur: 9:30 - 10:45 am Shiur: 10:45 - 11:15 am

For more information, please contact Aron Subar at 845-558-8734, or monseybusinesshalacha@gmail.com

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