



Business

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STORYLINE

postponed paychecks

Dovid Gold had been working comfortably for many years at Feldman Financial Company. On a monthly basis, like clockwork, his paycheck was direct-deposited into his bank account. With this salary, he paid his mortgage, tuition for his children, shopping, and the many other expenses of daily life.

The past year had been rough on the company. Fortunately he was not laid off, but his bonus was cancelled for the year, and there was even talk of reducing salaries. While disappointed, he took comfort in knowing that he still got his paycheck every first of the month.

Then it came...

Just before payday, a memo was circulated that salary payments would be postponed, due to the weakened fiscal state of the company.

A month later, a similar memo was sent out

Business Weekly has
been dedicated

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

By Rabbi Meir Orlan

Halacha Writer for the Business Halacha Institute

delaying payment of salaries again. Word leaked out that the company was setting aside money to make a vital investment for its continued operation.

Mr. Gold gently broke the news to his wife that evening. Having used up much of their available savings, how would they manage the coming month? They could borrow from relatives or sell some stocks (but who wants to sell with the market at its low?!); perhaps the kids couldn't go to camp...

Most frustrating was the unspoken question, "Does the company have the right to postpone wages without first receiving the workers' consent?"

He located the sugya in Bava Metziah (110b) that addresses the topic of timely payment of wages. He was amazed at the many laws detailed there.

He continued on to Shulchan Aruch (Chosh-

en Mishpat #339) where the laws are codified. The opening lines were unequivocal: "It is a mitzvah to pay wages on time, and one who delays it violates a prohibition ... One who withholds a worker's wages is like taking his soul..."

Mr. Gold decided to take up the issue with his boss. With trepidation, he approached Mr. Feldman and described the difficulties that the workers were likely to experience if the salaries would be delayed again, and what he had learned in the Gemara and Shulchan Aruch.

Mr. Feldman sympathized with the hardship, but underscored the vital nature of this step for the company. He was surprised, though, to hear of the severity of the issue, and promised to investigate the issue further.

He picked up the phone to call Rabbi Dayan

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FROM OUR HOTLINE

Submitted by
T. N.

renter's insurance

My tenant is occupying an apartment without a lease for \$700 a month, which is a low price in this market. The higher-end price for such an apartment is about \$900. Someone approached me and told me that he'll pay \$1000/month for the apartment - but he needs it at the beginning of the next month. If he can't have the apartment at the beginning of next month, he'll find another place.

Q: Can I tell my current tenant that he must move out now? If I halachically may not, may I tell him that during the time that he has the right to remain there, I expect him to pay me \$1000 - the amount the potential tenant would pay?

A: Shulchan Aruch (C.M. 312:5) writes that when Reuven leases property to Shimon

with no specified lease duration, he must give notice to Shimon before demanding that he vacate the property. Depending on market conditions, the time frame may be generally thirty days to one year. This halacha clearly states that you may not demand that your tenant move out at once. The next question is whether you may charge your tenant \$1000/month for the period of notice.

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STORYLINE CONTINUED

and described the situation. "Of course!" exclaimed Rabbi Dayan, "There is a clear mitzvah to pay wages promptly, and a severe prohibition to delay, if it is evident that the employee expects prompt payment."

"Is it ever permitted to delay payment to one's employees?" asked Mr. Feldman.

"Payment can be postponed only if there was a mutual understanding to that effect ahead of time, the employer does not have funds available, or the employee does not express interest in being paid promptly (C.M. 339:9,10)," replied Rabbi Dayan. "Even in these situations, it is still proper to pay on time (Pischei Teshuva #7, 8)."

Mr. Feldman thanked Rabbi Dayan for his time and slowly put the phone down, deep in thought.

He would have to make every effort to finance the investment some other way. If that would prove to be impossible, he would call a meeting of the employees to explain the long-term benefit of the projected investment for them and ask for their

permission to delay salary payment so that the company could get back on its feet and ensure future timely payments.

When the news reached Mr. Gold, a sense of relief swept over him. He was sure his fellow employees felt the same.

As he shared the news with his wife, an incredible thought hit him. He was an employee - but wasn't he also an employer? Did he not hire the appliance man to fix his air conditioner, the seamstress to alter his wife's dress, the piano instructor to give music lessons, the girl next door to babysit, the young Kollel man to tutor his son... Wasn't he also required to pay them immediately?

Sometimes they said, "Pay me later," but at times he neglected to pay promptly and they seemed disappointed. He now began to appreciate what they felt. He would have to be more careful to keep a sum of cash on hand for them.

"It's amazing how much there is to learn and be sensitive - on both sides," he mused to himself.

FROM OUR HOTLINE CONTINUED

Shulchan Aruch (C.M. 312:9) adds a vital qualification to the earlier ruling: although a landlord must give his tenant proper notice to vacate the property, if the rental market increases, the landlord may give his tenant an ultimatum, either you pay the higher rent or vacate the property right away. This indicates that you may be allowed to inform Shimon that if he wants to stay for the time granted by Chazal, he must pay \$1000. However, the application here may be different. Shulchan Aruch refers to a circumstance in which the market increased. In your case, the market hasn't changed; it is just that someone is willing to pay a price above market value. This case is disputed in halacha. Some rule that Chazal did not grant the tenant the right to remain if

it would cause a loss to the landlord, and the landlord may raise the rent of his present tenant (Paamonei Zahav CM 312:5). Others rule that rent that's higher than market value is not a loss that permits the landlord to charge the present tenant and is against the expectations of the tenant who relied on you to rent it to him for its value (Mateh Yosef CM 2/2). Due to the fact that this is subject to debate, you cannot demand that your tenant pay \$1000 for the time that he remains in the apartment. However, since the actual market value here varies between \$700 and \$900, it is our opinion that you may raise the rent to \$900. Your present tenant might expect you to adjust it if you'd find another tenant who is willing to pay a common market price.

Please contact our confidential hotline with your questions & comments

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MONEY MATTERS

business competition week #1

Q: There is a kosher pizza store in town. Can the owner restrain me from opening a competing store?

A: This issue of hasagas gevul (interfering in another's business) is addressed in Bava Basra 21b. Tannaim dispute whether one can prevent someone from opening a competing business adjacent to his. Most Rishonim rule that the first tradesman cannot

prevent him unless the potential competitor lives and pays taxes in another city (C.M. 156:5). Nowadays, due to the different circumstances of commerce, we usually cannot prevent a competitor even from a different city.

However, the Gemara introduces the concept of pasakta l'chiyusi (you cut off my livelihood). If the newcomer threatens to cut off the income of the original tradesman entirely,

many rule that he has the right to restrain the competitor (Pischei Teshuva 156:3; Igros Moshe C.M. #38). Furthermore, he is prohibited to compete in an unfair manner, such as by selling below cost (Erech Shai 228:18). Thus, the ability of the pizza store owner to restrain you from opening is very restricted. However, it is meritorious not to encroach upon another's livelihood (Chavas Yair #42).

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