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STORYLINE

it might be all right

By Rabbi Meir Orlian

Halacha Writer for the Business Halacha Institute

The annual rabbinic convention drew Rabbonim from all across the country. Rabbi Dayan was happy to meet his former Rosh Yeshiva there. At the conclusion of the convention, Rabbi Dayan asked him, "How is the Rosh Yeshiva getting to the airport?" "I'll take a taxi," replied the Rosh Yeshiva. "My son, Zvi, is picking me up," said Rabbi Dayan. "Can we give you a ride?" "Thank you so much," said the Rosh Yeshiva, "but you live in the opposite direction." "Oh, please," said Rabbi Dayan. "It would be our privilege and pleasure to drive you." "No, no," insisted the Rosh Yeshiva. "I very much appreciate your offer, but I refuse to take you out of your way!" He opened his wallet to take out money for a taxi. "Oy, vey! I thought I had money," he exclaimed. He turned to Rabbi Dayan and asked, "Do you happen to have money that

I can borrow?" "How much do you need?" asked Rabbi Dayan. "Between the taxi here, the airport, and the taxi home, I'll need about \$100," said the Rosh Yeshiva. "Sorry," said Rabbi Dayan, "but I only have \$20. My son might have money, though." They walked over to the car, where Zvi was waiting. "Do you have \$100 to lend the Rosh Yeshiva?" Rabbi Dayan asked his son. Zvi took out his wallet and gave the Rosh Yeshiva five \$20 bills. "With pleasure," he said. "You can return the money to my father next time you see him or send us a check." He started to get back into the car. "Wait," called the Rosh Yeshiva. "I have to give you something." Zvi looked at the Rosh Yeshiva questioningly. "I have to write an I.O.U. note that I bor-

rowed \$100," the Rosh Yeshiva explained. "It's quite all right," exclaimed Zvi. "I trust you completely! There's no need for that." "It might be all right, but it may not be," said the Rosh Yeshiva with a twinkle in his eye. "It's certainly preferable, though. Ask your father." "Okay," said Zvi with a puzzled expression. The Rosh Yeshiva wrote in his handwriting, "I.O.U. \$100," and signed the note. "Keep this until I return the money to your father," he said. Rabbi Dayan and Zvi got into the car. "That was embarrassing," said Zvi. "As if I don't trust him! 'It might be all right, but it may not be.' What did the Rosh Yeshiva mean?" "The Rosh Yeshiva was referring to the halacha that one should not lend without some form of evidence," explained Rabbi Dayan. "The Gemara (B.M. 75a) states that one who

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FROM OUR HOTLINE

Submitted by
N. M.

repayment plan

I lent a friend \$1,500 and we set up a payment plan of \$150/month for ten months. Knowing the financial strain he was under, I suspected that he would not be able to pay and never asked him to make payments. A year has now passed and I really need the money. Hoping that my friend's situation had improved, I told him that I need \$1,500 immediately. I figured that since it was already two months after the full amount should

have been paid, he would repay the entire amount. He apologized for not paying me back sooner but said that it would be hard for him to come up with \$1,500 at once. He wants to begin making \$150 monthly payments now to repay the loan.

Q: Can I demand immediate full payment?

A: Teshuvos Shai LaMora (siman 34, quoted

in K'tzos (73:9)) addresses a similar case and begins his response from your perspective: once the entire amount is due, the lender may demand immediate payment in full.

To prove this perspective correct, he presents the following case. Reuven loaned Shimon money to be paid on Erev Pesach. If Reuven did not collect his money on Erev Pesach, would anyone argue that Shimon

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STORYLINE CONTINUED

lends money without witnesses violates the prohibition of lifnei iver - causing another to stumble and sin. Rashi (ibid) explains that without witnesses, the borrower will consider denying the loan. The lender also causes damage to his reputation, because if the borrower later denies the loan, people will suspect the lender of claiming falsely."

"It seems strange to think that the borrower will lie," said Zvi.

"We do not normally suspect the average person of being a liar," explained Rabbi Dayan, "but lending without evidence places an unnecessary temptation before the borrower."

"Clearly, though," said Zvi, "this applies only to someone who might lie, but not to someone like the Rosh Yeshiva!"

"Not so simple," replied Rabbi Dayan. "The Gemara relates that Ravina refused to lend to Rav Ashi without a loan document. He explained that Rav Ashi might get so engrossed in his learning that he would forget the loan. The Shulchan Aruch writes that one should not lend

without witnesses, a document, or collateral, even to a Torah scholar (C. M. 70:1)."

"Funny," said Zvi. "I don't notice people insisting on evidence nowadays."

"A number of authorities seek to justify the practice of many people not to be careful about this," his father said. "Aruch Hashulchan suggests that they know and trust one another, and the lender knows that the borrower won't forget or deny (C.M. 70:1). Others suggest that the halacha is only for one who lends money regularly. Some are lenient for short-term loans or small sums. In the case of a Torah scholar, some explain that Ravina was just being extra cautious."

"Nonetheless, the straightforward ruling of the Gemara and Shulchan Aruch is that one should be careful," concluded Rabbi Dayan. "That is what the Rosh Yeshiva meant. It is permissible, though, to lend small sums without evidence between relatives or neighbors who do not care if the loan goes unpaid."

FROM OUR HOTLINE CONTINUED

has until the next Erev Pesach to repay the loan? Similarly, once the time for the loan repayment has passed, there is no reason to think that the borrower can expect to start making small payments.

Upon further analysis, however, Shai LaMora proceeds to prove that the lender may not demand immediate payment of the entire sum. He cites discussions in the Gemara (see Bava Metzia 77b) that demonstrate that paying in increments, rather than the total at once, is to a borrower's advantage. Consequently, when the lender agreed that the loan would be paid incrementally, the borrower acquired that right and the lender may not unilaterally deny him that right. Thus, when the lender decided that he will not collect the loan as each payment is due, he is in essence extending the due

date of the loan - but does not have the authority to deny the borrower the right to make incremental payments within a fair pay schedule. Similarly, in your case, though it was generous of you to give your friend extra time to repay the \$1,500, you do not have the right to demand full payment all at once. The borrower may ask for a fair pay schedule until the loan is repaid.

However, if you didn't demand timely payments because you knew that your friend did not have the means to pay and you didn't want to violate the prohibition of lo tihiye lo k'noshe - do not act toward him as a creditor (Shemos 22:24), you may ask him to pay you in full whenever he can. In this case, there was a halachic prohibition to demand the payments and you didn't forgo your right to have the debt paid up.

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MONEY MATTERS

unfair pricing week #3

Q: How is the "fair market price" determined in a free market?

A: Prices in a free market are driven mainly by supply and demand. In some markets, the forces of supply and demand lead towards a narrow price range or even to a single price, and it is relatively easy to ascertain a fair market value and hence determine the

price differential between the price paid and the fair market value. In our typical commercial setting, however, the market is wide and there are often significant price differences between stores selling the same item. Any price that the majority of sellers would consider a marketable price - one that can still conform to the commercial rules of supply and demand - would be considered a fair

market price, even if this seller is the only one to charge such a price. Therefore, most prices charged by stores would still be considered fair market value (Hilchos Mishpat 227). Ona'ah would apply nowadays if a storeowner overcharged an unsuspecting customer a price that is not marketable, or in a private sale where one of the parties was unaware of the going market price (ibid).

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