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STORYLINE

finders keepers

By Rabbi Meir Orlian

Halacha Writer for the Business Halacha Institute

"We'll be taking a class trip now to the park a few blocks away," the teacher announced. "Please walk in an orderly fashion and keep on the sidewalk." The class headed out to the park. Zvi, David, Benzion and Aharon were walking along together, when Zvi suddenly stopped. He looked intently at the other side of the street. "I think I see money lying there across the street," he said. His friends turned to see. "Yes, it's a \$20 bill!" Zvi exclaimed. "I saw it first; it's mine!" "So what?" argued David. "It's still on the other side of the street." David started running towards the money. So did Zvi, Benzion and Aharon. David got there first. "I got here first," he called out. "It's mine."

Benzion, who was just three steps behind, quickly stretched out his foot and covered the money with his shoe. "That's it," he said. "I touched it first. It's mine!" As he removed his foot to pick up the money, Aharon reached down and grabbed the bill. "No," he called out, "it's mine!" The four boys stood in a circle shouting at each other, "It's mine!" "No, it's mine!" Aharon put the \$20 bill in his pocket. The teacher walked over. "What's going on here?" he asked. "I saw a \$20 bill lying across the street," said Zvi. "I found it, so it's mine." "But I got to it first," claimed David. "I put my foot on it first," countered Benzion. "And I picked it up first," retorted Aharon. "It was not safe to run across the street," the teacher said. "Regarding the money, I don't

know what the halacha is. You can either agree to divide it or we can stop along the way at Rabbi Tzedek's yeshiva and ask him who's entitled to the money." "Let's ask Rabbi Tzedek!" they all said. "Listen up," the teacher called out. "We're going to stop at Rabbi Tzedek's yeshiva." When they reached the yeshiva, the teacher took them to Rabbi Tzedek's office. "We were on a class trip and a monetary question came up," he said. "Can we come in and ask you the halacha?" "With pleasure," he replied. "Come in." The class piled in to Rabbi Tzedek's office. "Who is claiming from whom?" asked Rabbi Tzedek. "I am claiming from Aharon," said Zvi. "I saw money on the other side of the street and claimed it, and then Aharon went ahead and

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FROM THE BHI HOTLINE

Submitted by
C. L.

mop swap

My cleaning lady was ready to wash the floor, but my mop was nowhere to be found. I went to my neighbor and borrowed her mop. An hour later, she called back and asked me to return it, since her cleaning lady had arrived. I replied that I needed it for another hour or so and I would return it to her then. She continued to insist that I return it immediately, so I did.

Q: Was I obligated to return it as soon

as she wanted it, or can I use something until I am done once it is lent to me?

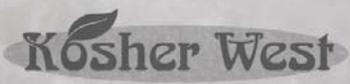
A: It is not clear from your question whether you informed your neighbor that you needed the mop to clean your house, or if you just asked to borrow it without specifying your intent. As we shall see, the wording of the request will affect the halachic decision. Shulchan Aruch (C.M. 73:1) draws a distinction between loaning money and borrowing

an object when the loan was for an unspecified period of time. Although the time period for a loan of money in such a case would be thirty days, when one borrows an object, the owner may take it back immediately. The rationale for this distinction is that the purpose of a monetary loan is for spending it. The borrower must therefore be given ample time to earn the money to repay the loan. In contrast, a borrowed object is returned as is. As such, the borrower does

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took it.”
 “I got there first,” David added.
 “And I put my foot over it first,” Ben Zion chimed in.
 “What do you say?” Rabbi Tzedek asked Aharon.
 “It’s all true,” replied Aharon, “but I picked it up first.”
 “Who gets the money?” asked the teacher.
 Rabbi Tzedek turned to the four boys. “The money belongs to Aharon,” he ruled.
 Rabbi Tzedek then explained, “A person who finds a stray bill is permitted to keep it (C.M. 262:1). However, for a person to acquire a lost item, he must take possession of it through a kinyan (act of transaction). Seeing the lost item alone is not sufficient to make it yours. Putting your foot on it, or even lying down on it, also does not make it yours, since this does not constitute an act of acquisition. Only picking up the item, or dragging it, if it is heavy, is a valid kinyan to acquire the item (268:1). Therefore, neither Zvi nor Ben Zion acquired the money until Aharon picked it up and acquired it.”
 “We learned, though, that whoever comes close first acquires

the item,” inquired David.
 “There is, indeed, a concept of ‘daled amos,’ replied Rabbi Tzedek. “In order to prevent fighting over found items, Chazal instituted that the item belongs to whoever comes first within close proximity. This means within four amos, which is approximately 7 feet. We consider this area as belonging temporarily to the person who stands there.”
 “So why is the money not mine?” asked David.
 “Chazal only instituted this in semi-public areas,” answered Rabbi Tzedek, “such as side alleys or the very edges of public areas where people generally don’t walk. Such an area can be considered as belonging temporarily to the person who stands there. Had the money been there, you could have acquired it through the rule of daled amos. However, in a public area, like the street, or in private property, this idea of daled amos doesn’t apply (268:2; see Aruch Hashulchan 268:1).
 “Therefore,” concluded Rabbi Tzedek, “the money remained unclaimed until Aharon finally picked it up.”

not need time to be able to return the object (Sema 73:5) and must return it upon demand. Another explanation is that loaning money is a fulfillment of a positive commandment (see Shemos 22:24), and Chazal determined that if the borrower cannot use the money for at least thirty days, he does not sufficiently benefit from the money. However, borrowing tangible items does not involve a specific mitzvah other than chessed; therefore, Chazal did not assign a specific duration of time for the borrowing (Chikrei Lev Y.D. 3:128).
 If one lent a tangible item for a fixed period of time, once the borrower has taken the item, the owner may not demand the return of his object until the end of that period (C.M. 341:1). Similarly, if the borrower asked to borrow the

item for a specific task and has already taken possession of it, the owner may not take it back until the specified task is completed (C.M. 341:5,7).
 Therefore, if you had specified that you wanted to borrow the mop to mop your house, you would have the right to keep it until you finish mopping all of your floors. If you simply asked to borrow the mop, the owner should have the right to take it back whenever she wishes.
 Nevertheless, since one generally loans a mop with the understanding that at least one entire room will be mopped, it is comparable to asking to borrow an item for a specified period of time. The owner may only demand the return of her mop after the borrower could have used it to clean one room (Urim VeTumim 73 Urim 4).

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MONEY MATTERS

borrowing and lending week #1

Q: What are the responsibilities of the borrower to the lender?

A: There is a mitzvah upon the borrower to repay the lender. A person who borrows and does not repay is called “wicked” (Kesuvos 86a; Avos 2:14). Therefore, one should not borrow if he does not have a plan how to repay. Nor may the borrower squander his

money so that he will be unable to pay when the loan is due (C.M. 97:4; Ahavas Chesed II, ch. 24).

The borrower is not allowed to withhold payment or stall the lender past the due date if he has the money (C.M. 97:3). If the lender is not present, the borrower is required to make sure that he has money available after the due date to repay the lender when

he asks (C.M. 73:8). If the borrower refuses to pay when he is able to, some consider him a thief retroactively (Imrei Bina, Gevias Chov #2).

Conversely, if the lender knows that the borrower is not in a position to repay now, he may not pressure him or behave in a way that will embarrass him (97:2; see Pischei Choshen, Halva’ah 2:8).

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