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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

free ride

By Rabbi Meir Orlan

Halacha Writer for the Business Halacha Institute

"Yitzi, I'm going to Yerushalayim this morning to visit the Kosel," Shlomo announced to his roommate. "Would you like to join me?" The two had recently come to learn in Israel for the year.

"Sure," said Yitzi. "I haven't been at the Kosel in years!"

"I'm going to stop off in the Bais Yisroel area first," said Shlomo. "I have to bring something to my friend, Reuven, who learns in the Mirrer Yeshiva. We can take a bus from nearby Meah Shearim to the Kosel."

"Fine," said Yitzi. "I'd like to see Meah Shearim anyway. How much are buses in Yerushalayim?"

"A ride costs 6.20 NIS, and it won't cost extra to make the stop," Shlomo explained. "In Yerushalayim you get a bus transfer that is good for an hour and fifteen minutes, which gives you a free transfer from one bus to another."

other."

The bus from Egged Central Bus Station to Meah Shearim took a while to arrive. Yitzi looked at his watch every few minutes. The bus finally arrived at 10:15.

Yitzi and Shlomo got on the bus. They paid the driver and asked him for transfers. Yitzi noticed that the time on the transfer was printed as 10:20, valid until 11:35.

"Interesting," he thought. "The clock on the bus seems off by five minutes."

The boys met Reuven in Meah Shearim. They bought a cake for Shabbos, purchased some seforim, and then went to see the Beis Midrash of the Mirrer Yeshiva.

"It's incredible to see so many religious Jews in one place," said Yitzi. "All these Jewish stores! And what an unbelievable Beis Midrash!"

They were headed toward the stop for the

Kosel bus when Shlomo stopped to answer a call on his cell phone.

"Who was that?" asked Yitzi.

"My aunt and uncle are here for a week," Shlomo said. "They're on their way now to Meah Shearim and would like to see me. I'll have to go to the Kosel later in the afternoon."

"Oh!" sighed Yitzi. "I would prefer going to the Kosel with someone."

"I'll come with you," said Reuven. "Let me just run back to the Yeshiva for a few minutes to get ready. I'll meet you at the bus stop shortly."

Reuven headed back to his Yeshiva.

"Here, take my transfer," Shlomo said to Yitzi as he turned to leave. "I don't need it; let Reuven use it instead."

Yitzi looked at his watch. It was already past 11:20. "I hope Reuven comes soon," he

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FROM OUR HOTLINE the switched citrons

Submitted by
B. E.

My roommate bought a beautiful esrog and paid a premium (\$175) for it. I, too, got a nice esrog, but for much less (\$75). As I packed to go home, I accidentally took his esrog instead of mine. I did not realize that a switch had occurred until the first day of Chol Hamoed, when my roommate called to tell me what had occurred. I felt terrible and told him that I'd bring his esrog to his

house so we could exchange esrogim. He was not satisfied with my response and said that he'd spent all that extra money to fulfill the Biblical command to take an esrog on the first day of Sukkos with the nicest esrog he could afford. He wants me to pay him the difference between the cost of the two esrogim, since that is what he felt he lost as a result of my mistake.

Q: Am I obligated to pay the difference?

A: When you unintentionally took your friend's esrog, you violated the prohibition of stealing. The fact that it was done accidentally doesn't change the fact that it was stolen. However, a thief's primary obligation is to return the stolen object to its rightful owner. The obligation to reimburse the

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STORYLINE CONTINUED

said to himself, "so that we can use the transfers."

By the time they reached the station, it was already 11:32. Yitzi suddenly thought, "Can I really give Shlomo's transfer to Reuven? And can I still use my transfer? Even though it's printed as 11:35, the hour and a quarter is actually over!"

The bus was about to come; he needed to make a quick decision. Behind him was a distinguished-looking rabbinic figure learning patiently while waiting for the bus.

Yitzi turned to him, "Do you speak English?"

"Yes," the rabbi answered.

Yitzi quickly related the pertinent facts.

The rabbi told him, "You can still use your bus transfer, but you cannot give Shlomo's transfer to his friend. I'll explain the details to you when we board on the bus."

When they were seated on the bus, Yitzi introduced himself to the rabbi.

"Nice to meet you," replied the rabbi. "My name is Rabbi Dayan. I'm in Israel for a family

wedding. We'll be able to fulfill belechtechah baderech and learn while traveling to the Kosel."

"Wow!" exclaimed Yitzi. "I've heard a lot about you."

"The principle issue is the intention of the Egged Bus Company," said Rabbi Dayan. "Clearly, the transfer is granted to the passenger to continue his travel. It is not intended to give a free ride to someone who hasn't paid. Even if it would not say 'non-transferable' explicitly, it still would not be allowed (see Choshen Mishpat Rama 207:4 and 215:8)."

"What about having used the transfer just after the hour and a quarter?" asked Yitzi.

"The same principle applies," answered Rabbi Dayan. "Egged Bus Company cannot deal with each individual's watch. They follow the time printed on the transfer, and add a few minutes purposely to avoid complaints. Therefore, you are allowed to use it even if it actually past the hour and a quarter."

"Thank you so much," said Yitzi. "It was great to meet you in person!"

FROM OUR HOTLINE CONTINUED

owner is only when the item no longer exists or has been materially changed from its condition when it was stolen (CM 360:5). Therefore, since the esrog is still intact in this case, you should be only obligated to return the esrog to your roommate. He is claiming, however, that you should be obligated to compensate him for the esrog's lost value from the time that it was stolen to when it is now being returned. Pischei Teshuvah (CM 363:1) quotes different opinions whether returning a stolen esrog after it has lost some of its value releases any obligation to reimburse the lost value of the esrog. According to one opinion, there is no further obligation of payment if the esrog has not undergone any physical change. Others maintain that since the loss of value of an

esrog is obvious to everybody, it is equivalent to a visible damage and the owner must be compensated. Additionally, even if there is an obligation to reimburse, it might only apply for a compensation of a regular non-mehudar esrog (Be'er Hetev OC 656:4). Since the matter is unresolved, your roommate cannot claim any additional payments.

Additionally, to fulfill the Mitzvah of arba minim you must own those four types for the first day of Sukkos. Since you used each other's esrog, you did not fulfill the mitzvah. It is therefore preferable that both of you be mochel (pardon) each other for the theft. According to some opinions, this would consider the mitzvah retroactively fulfilled (See Sha'arei Teshuvah 658:6, Daa's Torah 658:4).

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MONEY MATTERS

defective merchandise week #7

Q: I bought a dozen eggs and many of the eggs in the carton had blood spots. Can I demand a new carton of eggs to replace them?

A: You should be entitled to return the eggs for replacements, since eating eggs with blood spots is prohibited. However, the Shulchan Aruch writes that nowadays the practice is not to return them, and that in

this context the common practice (minhag) supersedes halacha (Choshen Mishpat 232:19). This is because the laws of buying and selling depend on the understanding between the involved parties, and everybody buys and sells based on the common commercial practice.

Similarly, if an animal is slaughtered and found to be treif, the Shulchan Aruch rules that the seller has to refund the money

(Choshen Mishpat 232:11). However, Pischei Teshuva writes that apparently the custom nowadays is not so and the custom prevails, so that Beis Din has to verify the local practice in each place (Choshen Mishpat 232:6).

This principle is significant in other situations where the common commercial practice is at variance with the standard halacha, as we will see in the next issue.

WEEKLY STUDY GROUP

RESTARTING SUNDAY, OCTOBER 10

I made a verbal commitment to use a broker, but I just found a better rate. May I renege on my commitment?

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

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