

Paying Rent and Bills On Time יהושע פוזנא

In the last shiur we learnt the principal הלכות of בל תלין; and the obligation it places on an employer to pay his employee on time.

As we mentioned in the last שיעור these הלכות don't apply when dealing with גויים, when one just has to ensure he doesn't make a חילול ה'.

How Far Reaching Is This איסור?

The בבא מציעא דף קי"א. in משנה (1) tells us that these הלכות apply to all forms of hiring/שכירות, whether a person (employment), an animal or vessels. The גמרא asks how we know to include these other forms of rental in the איסור? The גמרא answers, from the word "בארצך/in your land" (לא (תעשוק שכר שכיר עני ואביון מאחיד מגרך אשר בארצך עשה לאו and לאו). we learn whatever is in the land that can be rented is included in the לאו.

Land Rental

The רמ"ה explains that the word "בארצך", can only include in the הלכות something one rents that is on the land; but not the land itself. The מחבר in חו"מ סי' שלטי סי' א' (2) says, "There are those who say that these הלכות don't apply to one who rents land!" referring to the opinion of the רמ"ה. The מחבר doesn't quote any other opinions. However the Vilna Goan argues, and says that this גמרא is quoting the opinion of a ברייתא; but we pasken like the רמ"ה and therefore there is an איסור even when one delays paying rent on a property. The ערוך השולחן paskens like the Vilna Goan. Similarly the חפץ חיים in פי ט' ה"ה (פ' ט' ה"ה) in חיים paskens that one has to be מחמיר when it comes to land rental, to make sure that one pays the rent on time!

Real Estate Rental

The above dispute is strictly with regards to renting land that has nothing built on it e.g. *renting a parking lot*. However, the קצות (3) on this הלכה points out that when it comes to buildings, for example; which are made of movable objects (bricks and cement), even though they've now been fixed to the floor; they are referred to as "תלוש ולבסוף חיברו". There is a מחלוקת if buildings have the דין of קרקע because they are now attached to the ground; or מטלטלין since they are made of components which were moveable. This מחלוקת is relevant to various different הלכות. However when it comes to the הלכות of בל תלין, the קצות explains that everyone (including the מחבר); agrees we have to be חושש for the opinion that "buildings" have a דין of מטלטלין.

Therefore if a person goes to a מקוה where there is a sign clearly stating that payment must be made (this is the תביעה), and there is no option to pay another time; seeing as he's renting the use of the מקוה and showers; if he doesn't pay before שקיעה, he's been עובר the לאו of בעל תלין and מבטל the ענין of טבילה (! Surely outweighing any possible ביומו תתן שכרו עשה)

Other Conditions Of בל תלין

The Necessity of Requesting Payment

As we learnt in the last shiur, in order to be עובר בל תלין one has to be asked

for the rent/salary before the deadline. However as explained then, this is only because failure to ask for payment, is viewed as a מחילה of ones right to be paid on time. Therefore רב אלישיב שליט"א paskens, if an employee has in his contract that he has to be paid on a particular date every month; this is considered as if the employee asks for his salary each month. The same will apply to any property rental which has a date of payment stipulated in the contract!

The Deadline

As we learnt, the deadline is the first sunrise or sunset after the time when the rent was due. However there will only be a לאו if the rent which is meant to be paid; is for, up to and including, the date of payment. For example if the months rent is due on the last day of the month. However if the rent is only due on a date later than the last date being paid for, there will be no לאו! The same will be true if for any other reason, at the beginning of the rental, the landlord did not expect to be paid on time.

Having the Money

As we learnt, the tenant will only be עובר if he has the money to pay the rent; or can access it without incurring a big loss.

Hiring Through a Third Party

As we learnt, there is no לאו when the property was hired through a third party.

Avoiding בל תלין

The ש"ך quotes the ספר חסידים who explains, if in the initial contract it is written that: "The employment or rental is on condition that there will be no בל תלין, even if payment is not made on time"; then there will be no איסור because we say that the employee/landlord has been מוחל his right to be paid on time.

The איסור דרבנן

The מחבר in (סק"ח) explains, that intentionally delaying to pay after the time that the rent or salary is due, transgresses a לאו of מדבריהם "אל תאמר לרעך לך ושוב". This איסור applies even when there is no בל תלין; for example: because payment was only due when an invoice was delivered, or the property was rented through a third party etc. Furthermore, one is continuously עובר this איסור, as long as payment is delayed; unless he is genuinely too busy to sort it out, or he forgets to do so. As opposed to בל תלין, which is a one off איסור which one either is or isn't עובר, if he hasn't paid by the deadline.

Ramifications of the איסור דרבנן

This איסור דרבנן doesn't only apply to employees who delay paying wages and tenants who delay their rent payments. In (4) שו"ע חו"מ סי'צ"ג סי'ג' the מחבר writes: "אסור ללוה לכבוש ממון חבירו ולומר לו 'לך ושוב ומחר אתן ויש אתו'" "It's forbidden to withhold money that one has borrowed from one's friend; and to tell him 'Go, and come back tomorrow and I'll give you then'; if he has the money now!" The סמ"ע and other מפרשים explain that the source of this

הלכה is the גמרא in בבא מציעא which quotes this איסור regarding not paying one's wages on time. It would seem, when a person owes his friend money because of an outstanding debt; even though there was never an איסור of בל תלין (because it wasn't an employment or rental scenario); nevertheless חז"ל imposed the same איסור דרבנן to prevent a person needlessly delaying repayment. If this were the source of the איסור, then it would seem that the same guidelines that we have already learnt about the איסור דרבנן, would apply to money owed due to unpaid loans. In other words there wouldn't be an איסור if one delayed repayment because, for example one forgot. However if a person owes money; whether it's because he borrowed money, or hasn't yet paid for work that was done for him, or items he purchased; he will be an עובר איסור דרבנן if he has the money and is withholding it without a valid reason.

In his ספר ממון ישראל, Reb Yisroel Pinchos Bodner quotes רב אלישיב שליט"א: "ומי שאינו משלם בזמנו מפני שעסוק בלמדו ואין לו פנאי לבדוק חשבונותיו ולשלם לא טוב הוא עושה אלא צריך לסגור הגמרא ולא לעבור על איסור "לך ושוב"!"

"A person who doesn't pay on time because he's busy learning, and therefore doesn't have time to check his accounts, and settle them; he is not behaving in a correct manner. He needs to close his גמרא and refrain from transgressing the איסור דרבנן!"

Summary

The most common cases where בל תלין could apply are: Playgroups, babysitters, private teachers, plumbers, electricians, drycleaners, property rental, renting a hall for a simchah or function, mikveh charge, tablecloth rental etc.

However if the person owed the money is genuinely מוחל his right to be paid on time there is no איסור. Similarly if one has an account that one's bill is normally put on and settled at a later date (no particular fixed time), then there would be no איסור.

The reason many other employment scenarios don't involve בל תלין, is because the wage is often paid directly into an account; and clears on a date later than the last day being paid for. Since the employee knows and accepts this before he commences his work, it is considered as a מחילה. Similarly often work is only paid for when an invoice has been sent and processed. However in all of the above, and any other situation where money is owed, one is not allowed to intentionally delay payment if one has the money, unless one has a valid justification. One who does so is an עובר איסור דרבנן!

May we all keep these הלכות properly, and not keep people waiting for what is rightfully theirs; and בזכות this may הקב"ה answer all of our תפילות, and not keep us waiting for Him to fulfil them!

כתיבה וחתימה טובה