The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן רמ"ו סעיף א'-ב'

Overview

Siman 246 Seif 1:

It is permitted to lend or rent one's utensils to a gentile even if he will perform melacha with them on Shabbos, since one is not commanded to assure that one's utensils are not used on Shabbos. Some maintain that utensils used for melacha, for example a plow or something similar, may not be rented to a gentile on erev Shabbos. On Thursday it is permitted to lease it to him as long as the money that one takes is not for Shabbos exclusively. It must be taken b'havla'ah, meaning that one should lease it for a month or a week. It is permitted to lend it to him even on erev Shabbos. The latter rationale is more correct. It is permitted to lend him utensils on erev Shabbos even if one stipulates that the gentile will lend something to the Jew in return and we do not consider the agreement to be essentially a rental agreement.

- Although the first opinion maintains that there is no obligation to assure that one's utensils rest on Shabbos, nevertheless, the rental must be b'havla'ah and may not be just for Shabbos even if the utensil was given at the beginning of the week. According to the second opinion when one gives a utensil used for melacha to a gentile before Shabbos it appears as though the gentile is acting as the agent of the Jew. This is different from the ruling in siman 252 that permits giving a gentile hide before Shabbos since in that case the gentile works on Shabbos out of his own self-interest but when leasing utensils to a gentile it is clear that if he were instructed not to use them on Shabbos the fee for the lease would decrease. Since the Jew benefits from the lease the gentile appears as the agent of the Jew and it is prohibited. (M.B. 1)
- For example a mill or other craftsman's tools. Pri Megadim includes pots used for cooking since the gentile will still appear as though he is the agent for the Jew. (M.B. 2)
- If one takes payment for Shabbos it is prohibited even if the utensil is not used exclusively for melacha or if one leases to him a room for dwelling. (M.B. 3)
- Since the Jew does not benefit from the melacha done by the gentile no one will think that he is the Jew's agent. For this reason one may lend it to him for Shabbos exclusively. (M.B. 4)
- Even though one does not lend it for nothing; rather the loan is so that the gentile will lend something in return, nevertheless, since it is not done as a lease it is permitted. (M.B. 5)

Siman 246 Seif 2:

It is prohibited to lend a utensil to a gentile on Shabbos, and even on erev Shabbos, if it is almost dark and there is not enough time for the gentile to remove it from the Jew's home before dark. The reason is that the observer will think that the Jew instructed him to remove it from his home.

- This applies even to a utensil that is not used for melacha. (M.B. 6)
- It is also prohibited to sell it to him or to give it to him as a gift. (M.B. 7)
- Before dark means before sunset. (M.B. 8)
- Even though we do not have a true reshus harabim it is prohibited since one may not instruct a gentile to do something that is Rabbinically prohibited. If the city is surrounded by a wall it is permitted since taking it from the home does not involve a melacha. (M.B. 9)

Halacha Highlight

Renting a hotel room to a gentile for Shabbos

Shulchan Aruch Siman 246 Seif 1

ובלבד שלא יטל שכר שבת אלא בהבלעה

As long as he takes the money earned on Shabbos in one lump sum

Shulchan Aruch (סע' א') presents a disagreement regarding the permissibility to lease a utensil or a tool to a gentile for Shabbos. According to the first opinion, it is permitted to lease any tool or utensil to a gentile, and the only restriction is that the payment that one receives must be done b'havla'ah (מ"ב סק"ב). Shulchan Aruch then cites a second, more restrictive, opinion. According to this opinion, one may not lease tools or utensils used for melacha to gentiles on erev Shabbos since it appears as though the gentile is working as an agent of the Jew who owns the utensil or tool. However, it is permitted to lease the tool or utensil on Thursday or some other day earlier in the week as long as the payment for all of the days is paid at once (b'havla'ah) rather than for each day.

Mishnah Berurah (סק"ג) writes that one may not even take payment for leasing an item that is not normally used for melacha (e.g. a garment) if one is taking payment for the lease of that item for Shabbos. Similarly, one may not take payment for Shabbos for the lease of a room or apartment if one is paid separately for Shabbos. This seemingly creates a problem if one owns a hotel and rents rooms for Shabbos, since it would seem to violate this halacha. Teshuvas HaElef L'cha Shlomo (או"ח סי' קכ"ה) writes that since the gentile is generally there before the onset of Shabbos and stays after Shabbos is over, whatever he pays for the room includes weekdays so it is considered as though he is paying for Shabbos in the permissible manner of b'havla'ah. Teshuvas Maharshag (ח"ב סי' ס' סק"ב) writes that if the hotel owner takes payment before Shabbos it is permitted. The reason is that once the owner takes the money for the room, halachically he keeps the money even if something happens that prevents the guest from using the room (C. M. 334:1). Accordingly, the money the owner receives is not considered wages that were earned on Shabbos.