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

Overview

Siman 306 Seif 2:

If one's animal is standing outside the techum it is permitted to call it to enter the techum.

- If the animal does not come it is permitted to have a gentile bring it back into the techum but another Jew may not bring the animal back into the owner's techum and may not even move the animal outside of its present four amos. (M.B. 7)

Siman 306 Seif 3:

One may wait at the end of the techum so that he will be able to attend to the needs of a kallah or corpse to obtain a casket and burial shrouds. One may ask another to wait at the end of the techum until after dark so that he could obtain those items. It is also permitted to instruct him to go to a particular place to obtain the needed items as well as mention an alternative place to go if they are not available in the first place. Similarly, it is permitted to tell him that if he cannot find it for 100 he should purchase it for 200 but one may not mention the total amount of the purchase, in other words, one may not tell him not to exceed a certain price. It is also prohibited to purchase something for 8 and then tell the merchant to add more merchandise so that he will owe a total to 10. If it is necessary to mention the total cost it is permitted since it is for the sake of a mitzvah. Some prohibit this in all circumstances and that opinion is the primary position.

- One instructs him to purchase something there but it is permitted to merely instruct him to walk somewhere. (M.B. 10)
- Telling him not to exceed a certain amount is to save money and not necessary for the fulfillment of the mitzvah. (M.B. 12)
- This opinion is stringent with regards to tallying the final cost since this is the manner of business and is not permitted even for the sake of a mitzvah. (M.B. 14)

Siman 306 Seif 4:

One who hires a worker to guard his plants or something else may not pay him for working on Shabbos, therefore, he is not responsible for what happens on Shabbos. If he was hired for the week, month, year or for seven years he is paid for the work he does on Shabbos, therefore he is liable if something happens on Shabbos. The employee may not ask to be paid for Shabbos, rather he should ask for payment for the week or month (If he was hired for the month and stipulated that he should be paid a certain amount each day he is considered a day-worker.) **or he should ask for ten days' worth of earnings.**

- Shulchan Aruch refers to where he was hired as a day-worker and he did his job on Shabbos as well and it is teaching that he is not paid for that day. From Tur it is evident that it is prohibited even if he wants to pay him unless it is given as a gift. (M.B. 15)
- In other words, he stipulated that he would be paid for each day that he works and the terminology indicates that the employer can cancel their agreement during the week so that he only pays for the days of the week that he already worked. Therefore, he is considered a day-worker and may not receive wages for work done on Shabbos even if he is ultimately paid for the entire month. Magen Avrohom asserts that the same is true concerning the rental of real estate. When lending money to a gentile with interest one may not stipulate that interest will be calculated per diem; rather it should be stipulated that if the loan is paid in the middle of the week, he must either pay for the entire week or will not pay for that week. (M.B. 19)
- Shvus Yaakov disagrees with Rema's ruling. (M.B. 20)
- It is difficult to understand how merchants can hire people to guard their merchandise on Shabbos, therefore one should stipulate that he should begin guarding the stuff before Shabbos or continue to guard it after Shabbos as well so that the payment will be comprised of work done on Shabbos and work done during the week. (M.B. 21)

Halacha Highlight

Paying for a Shabbos hotel stay

Shulchan Aruch Siman 306 Seif 4

אינו נותן לו שכר שבת

He may not pay him for work done on Shabbos

Shulchan Aruch (סע' ד') addresses the issue of earning money for work done on Shabbos. He explains that if the worker is a day worker who gets paid for each day that he works, he may not receive payment for the work he does on Shabbos. However, if he is hired for the week, month or year and receives payment at regular increments it is permitted. This is called הבלעה and essentially means that since the payment for Shabbos is included in the payment that one receives for work performed during the week as well, it is permitted. Rema adds that if someone was hired for a month but it was stipulated that he would get paid for the number of days that he actually works, he is considered a day worker and may not accept payment for work done on Shabbos. Mishnah Berurah (ס"ק י"ט) explains that this stipulation indicates that the employer could fire the employee even in the middle of the week and the employee would only be paid for the days that he worked. Such an agreement is for these purposes a per diem agreement and thus the employee may not be paid for work that was done on Shabbos.

Magen Avrohom (סק"ז ומובא במ"ב שם) writes that the same principle applies regarding the lease of an apartment. If one leases an apartment for a month and stipulates that he will pay for each day that he remains in the apartment, it is prohibited for the landlord to take payment for the day of Shabbos. This creates a difficulty for one who has a hotel and has guests who stay just for Shabbos. Seemingly, it is prohibited to take payment for being a guest on Shabbos. Some authorities permit this since the guest will certainly be in the hotel before and after Shabbos and as such the payment that he makes covers the weekday in addition to Shabbos and thus is permitted under the allowance of הבלעה (פסקי תשובות אות ג').