The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן שס"ו סעיף ג'

Overview

Siman 366 Seif 3:

The household where the *eruv* is stored is not required to contribute food. The *eruv* does not have to be worth a *perutah*. The *eruv* is not placed in a yard; instead it is placed in a house that is for dwelling, to the exclusion of a gate-house, אכסדרה and balcony. The house must contain at least four *amos* by four *amos* of space even if the house belongs to a child. If it has been stored in a particular house, they should not switch it to another house out of considerations of peace. It is acceptable for a child to gather the food for the *eruv*. The custom nowadays, it to store the *eruv* in the *bais haknesses* and this was the practice of earlier generations. It seems to me that the reason is that our *eruvin* are in reality a *shituf* that does not have to be stored in a house, see below *siman* 386 and 387.

- The purpose of the *eruv* is to establish residence and thus it does not have to be worth a *perutah* but it must be bread as opposed to a utensil since a person's home is the location of his food. (M.B. 19)
- Since the residents have rights of passage it is not considered a dwelling place. (M.B. 20)
- There is a disagreement if a house is rectangular but contains 16 square *amos* qualifies and thus the *eruv* should be placed in another house. (M.B. 22)
- It is not necessary for the home owner to convey ownership since the *eruv* establishes residence and thus it may be stored in the house of a child. (M.B. 23)
- If there is a strong compelling reason to move it, it may be moved. (M.B. 25)
- It doesn't matter whether the home owner died, whether the new person would give money to the other residents or if the new person is a Torah scholar. If they stipulated at the outset that they reserve the right to move it, it may be moved. (M.B. 26)
- Rashi explains that moving the *eruv* will raise a concern that there is no *eruv* and the residents are transporting objects without an *eruv*. Tosafos explains that the concern is the home owner was stealing the food and thus the other residents moved it. A practical difference between these explanations is if the original home owner sold his house. In all cases, once it was moved to another home it is not necessary to move it back. The *halacha* is not clear if the donor wants the *eruv* returned to the first location. (M.B. 27)
- The food may not be collected by a gentile. (M.B. 28)
- Although a *bais haknesses* is not a place of residence due to its sanctity, nevertheless, the custom can be justified since our *eruvin* are really a *shituf* since we also combine the *mavo'os*. (M.B. 29)
- Since a *bais haknesses* is considered a communal yard, it is permitted to transport objects from it to another yard even without making an *eruv chatzeiros*. (M.B. 30)

Halacha Highlight

The concern when moving the *eruv* to a second location

Shulchan Aruch Siman 366 Seif 3
מפני דרכי שלום

Out of considerations for peace

Shulchan Aruch rules that once the *eruv* was stored in a house regularly, the community may not decide to store the *eruv* in the future in a different house out of considerations for peace. Mishnah Berurah (ס"ק כ"ז) explains that consideration for peace, is in reality a concern that switching houses will raise a suspicion, and Rashi and Tosafos (Gittin 60b) disagree what is the suspicion. According to Rashi, once people become accustomed to the *eruv* being stored in one house, if they see that it is not there they will become suspicious that there is no *eruv* and the residents are transporting objects without an *eruv*. Tosafos explains that the suspicion is that people will think that the person who had been storing the *eruv* was taking food for himself and thus the community members decided to move the *eruv* to another location. A practical difference between these explanations is if the owner of the house where the *eruv* is stored sells his home. According to Rashi, the *eruv* should continue to be stored in the same home, whereas according to Tosafos there is no reason to continue to store it in the same home and it could be moved to another location.

Teshuvas Chikrei Lev (או"ח סי' ע"א) maintains that the principle of חשד is Rabbinic in origin, whereas, Teshuvas Ra'anach (ח"ב סי' ע') contends that the principle is Biblical. There are two practical differences whether חשד is Biblical or Rabbinic. One difference is whether the residents may stipulate that they want to have the right to move the *eruv* to a different location. According to Chikrei Lev it is acceptable but according to Ra'anach it is not since it making a stipulation against the Torah. A second difference is whether it must be returned to the original location if it was moved to a second location. According to Chikrei Lev it may now remain in the second location whereas according to Ra'anach it must be returned to the original location. Mishnah Berurah ruled that a stipulation may be made to allow moving the *eruv* to another location (ס"ק כ"ו) and that once it was moved it is not necessary to move it back to the first location (ס"ק כ"ז).