The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן תנ"ד סעיף ד'

Overview

Siman 454 Seif 4:

A person does not fulfill his obligation with stolen matzah. When is this true? When he stole matzah, but one who steals wheat or flour and makes that into matzah fulfills his obligation since he acquired it by the change that it went through, and one merely owes the owner the value of what was stolen. (Regarding the recitation of the beracha see the beginning of siman 649).

- Even b'dieved one must eat matzah again and it seems that he would repeat the beracha as well. (M.B. 14)
- If one borrows matzah he certainly fulfills his obligation since there was no intent that one would return the borrowed matzah. Poskim write that when many people bake matzos in the same oven at one time they should state if someone takes his matzah he can have it as a present to avoid issues of stolen matzah. Another issue is when the seller states that he expects to get paid immediately but the customer does not pay him right away, the customer does not actually acquire the matzah and does not fulfill his obligation. (M.B. 15)
- L'chatchila one should not take such a matzah to fulfill his obligation since he cannot recite the beracha. (M.B. 16)
- The same is true if one took a matzah and gave it to another person. That person may use the matzah to fulfill his obligation since it changed possession [assuming that the owner abandoned hope of retrieving his matzah.] The recipient may even recite a beracha on the matzah since it did not reach his possession in a prohibited manner. If the recipient gives it back to the thief he may also use it for the mitzvah. (M.B. 17)
- It is taught there that under all conditions one should not recite the beracha and this applies to the beracha on matzah as well as hamotzi. Regarding birkas hamazon see below siman 196:1 with Mishnah Berurah. (M.B. 18)

Halacha Highlight

Eating the host's matzos

Shulchan Aruch Siman 454 Seif 4
במצה גזולה
With stolen matzah

Shulchan Aruch teaches that a person does not fulfill his obligation to eat matzah with matzos that were stolen. Mishnah Berurah (ס"ק י"ד) writes that one who stole matzos does not fulfill his obligation even b'dieved, and Shulchan Aruch's wording implies that when he eats matzah a second time he must repeat the beracha. Shulchan Aruch then clarifies that this restriction is limited to one who steals matzos, but one who steals wheat or flour and makes that into matzah, the mitzvah is fulfilled. The reason is that once the owner abandons hope of recovering his stolen property (יאוש) and the stolen property is transferred to another person's possession (שינוי רשות) it becomes the property of the second person and he fulfills the mitzvah with those matzos. The source for this ruling is a gezairah shavah from the mitzvah of challah which teaches that one must own the matzah in order to fulfill the mitzvah and thus one cannot fulfill the mitzvah with stolen matzah.

Teshuvas Imrei Binah (פסח סוף סי' כ"ג) raises the following related issue. If someone is a guest at another person's home for the seder, it would seem that the owner must formally transfer ownership of the matzos to his guests. Although the guests certainly have permission to eat the host's matzos, if the owner does not convey ownership of those matzos to them it is not theirs and thus they do not fulfill the mitzvah. Rav Yosef Shalom Elyashiv (אשרי האיש ח"ג פ"ס אות י"ז), in fact, rules that l'chatchila a host should convey ownership of the matzos to his guest but if he didn't the mitzvah is certainly fulfilled. The fact that the host invited his guests it is clear that his intent is that they should be able to fulfill the mitzvos of the night at his table and thus his intent is to convey ownership of the matzos to them. Rav Nissim Karelitz (חוט השני פ"ג סוף סק"א) reports that the Chazon Ish did not convey ownership of his matzos to his guests and from the fact that the Poskim did not raise this issue it is clear that it is not a concern.