



Today's Daf Digest is dedicated  
In loving memory of **שרגא פייוול דוד בן קמואל**  
The Abramowitz family

## OVERVIEW of the Daf

### 1) Elaborating on the Mishnah (cont.)

Another incident related to classifying an act as קרן or רגל is cited.

Ilfa issues a ruling related to an animal eating off of the back of another animal.

A Baraisa is suggested as proof to this ruling but it is rejected based on a teaching of Rava.

The exact context of Rava's teaching is presented.

### 2) A rolling pile of straw

R' Zeira asks about the status of a bundle of straw that rolls from a private domain to a public domain.

An attempt is made to resolve this inquiry but two rejections of the proof are presented.

### 3) Clarifying the Mishnah

The Gemara asks which case the Mishnah referred to when it distinguished between damages in the domain of the damaged party and damages that occur in the public domain.

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## REVIEW and Remember

1. What is the status of the back of an animal that is standing in a public domain?  
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2. How much does one have to pay if his animal eats wheat in a public domain?  
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3. What are the circumstances of the inquiry of whether זה נהנה וזה לא חסר is obligated to pay rent for the benefit that he received?  
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4. At what point does the Treasurer of the Beis HaMikdash violate the prohibition against deriving personal benefit from sacred property?  
\_\_\_\_\_

Today's Daf Digest is dedicated  
By Mr. and Mrs. Volvie Hollander  
In memory of their grandfather  
**ר' אברהם עביר בן ר' ישעי' ע"ה**

## Distinctive INSIGHT

*Why was the owner silent when his property was being occupied?*

הדר בחצר חבירו שלא מדעתו... וגברא דלא עביד למיגר

**R**av Chisda told Rami bar Chama that a wonderful discussion had taken place in the Beis Midrash regarding the halacha of whether a person has to pay rent to the owner of a property if he stayed there without the owner's knowledge. The Gemara quickly notes that the question arises in a case where the dwelling was not up for rent, but the one who entered was a person who was looking to pay for lodging, as he needed to find a place to rent. This is the classic example of זה נהנה וזה לא חסר—the occupant benefited, but the owner of the property did not lose anything. On the one hand, the occupant can say that he did not cause the owner any loss, as the dwelling would have remained empty had he not stayed there. On the other hand, the owner can perhaps claim that the occupant benefited, and had he not stayed in the vacant apartment, he would have had to pay to stay somewhere else.

A simple reading of the Gemara suggests that the owner of the dwelling was completely unaware when his property was occupied (שלא מדעתו). This is the reason his having tolerated this intrusion is not interpreted as his acceptance of this trespass. However, Tosafos (21a, ד"ה כהדיוט) explains that even if the property owner was aware of the entry of this resident into his property, and he was silent, he may still come later and claim that he wants compensation. This is how Tur (363) rules. ב"ח explains that in this case the occupant cannot say that the owner's silence indicates his consent to permitting him to stay in the property, as the owner can simply say that he was silent because he knew that he was going to later demand payment for the use of his property. The owner realized that by having someone in the apartment, other potential renters were unwilling to consider making an offer for the site, being that it was occupied.

The opinion of ב"ח is based upon the הגהות אשרי (to Bava Metzia 3:8) who explains that we do not always say שתיקה כהודאה—silence is tantamount to a confession. Anytime a person can explain to the court why he was quiet, and his claim is deemed reasonable, the court may accept this explanation and therefore not consider the silence as an automatic confession. ■

# HALACHAH Highlight

## Payment for unauthorized use of a storage facility

חדר בחצר חבירו שלא מדעתו

One who dwells in his friend's yard without his permission

Rif<sup>1</sup> and Tosafos<sup>2</sup> disagree whether one has to pay for use of another's property in a circumstance in which the property is normally leased, but the squatter does not pay rent. According to Rif, the squatter is obligated to pay for use of the property since by not paying the rental fee he is in effect causing the property owner a loss. Tosafos disagrees and maintains that the squatter is exempt without offering an explanation. Shulchan Aruch<sup>1</sup> rules like Rif and writes that a squatter on someone else's rental property must pay since it is considered as if he caused the property owner a loss.

There was once an incident in which Reuven rented storage place from Shimon in a warehouse located on Shimon's property. A widow asked Reuven if she could store stuff in the rented storage facility and he agreed. When Reuven's lease was up he removed all of his belongings from the storage facility and returned the key to Shimon and Shimon made no mention of the widow's belongings. Reuven reminded the widow and her son to remove their belongings from the storage facility. Some time later, when the orphan returned to retrieve his mother's belongings Shimon handed him a bill for the time that the widow's belongings were stored in his facility.

Maharashdam<sup>3</sup> initially wrote that the halacha in this case depends on the dispute between Rif and Tosafos. He subsequently rejects this analysis and decides that in this case all opinions would agree that the widow does not have to

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Rav and Shmuel disagree whether that line refers to all the cases or specifically the case of eating fruit.

It is noted that Reish Lakish and R' Yochanan dispute the same point.

The Gemara pinpoints the exact point of dispute between R' Yochanan and Reish Lakish.

### 4) Paying for benefit

Rabbah and Rava disagree about how to calculate "what the animal benefited."

Each Amora cites a Baraisa that supports his position.

R' Chisda cites a question of whether one who dwells in another's property without permission is obligated to pay rent.

The Gemara clarifies the exact circumstances of the case.

Rami bar Chama answered by citing the Mishnah that one must pay for benefiting from another's property.

Rava noted a distinction between the Mishnah and R' Chisda's inquiry and the Gemara explains why Rami bar Chama maintained that the two cases were parallel.

A number of unsuccessful attempts to answer this inquiry are presented.

The Gemara records further discussion about this inquiry but does not reach a definitive answer. ■

pay. The reason is that if Shimon wanted to receive payment for the rental of his facility from the widow he should have informed her, and since he didn't he cannot demand payment. ■

1. רי"ף לסוגיין
2. תוס' ד"ה זה אין נהנה
3. שו"ע חו"מ סי' שס"ג סי' ו'
4. שו"ת מהרשד"ם חו"מ סי' תמ"ו

# STORIES Off the Daf

## The master's aid

כמה לא חלי ולא הגיש גברא דמריה סייעיה  
Once, when Rav Pinchas of Ostila, ז"ל, met a man who had been very ill but was recovering, he imparted a very deep teaching. "In Bava Kama 20 we find that Rava says, 'כמה לא חלי ולא'—One whom Hashem helps need not worry about ailments or any other impediments.' But there is another way to learn this state-

ment: 'How many who are not sick yet fail to feel that their Master has aided them...' This can be understood to mean that as long as a man has not been seriously ill, chas v'shalom, he does not yet comprehend just how much Hashem helps him by keeping him well. But after one recovers from the complete powerlessness of a debilitating illness, he truly sees how Hashem is always helping him in every detail of his life."<sup>1</sup> In light of this it is easier to understand why a sick person who recovers is forgiven for all of his sins. This may be because he has a deeper appreciation of the incredible

kindnesses that Hashem bestows upon us every single moment of every day.

Rav Zusha of Anapoli, ז"ל, learned a different lesson from this. "We can also understand the word סייעיה to mean 'to travel away from'. When understood this way, the statement means: 'How much a person does not feel or notice that Hashem has distanced Himself from him.' This man may feel that he is a Jew of utmost importance, but the truth is that he is very far from Hashem!"<sup>2</sup> ■

1. מאורי אור עמוד קצ"ח
2. ארץ החיים עמוד ק"ד

