Karmin’s Cleveland’s Customized Kitchen Corner featured a broad array of Contemporary, Country, Old World, Rustic, Traditional, and Transitional kitchen designs.

Karmin quickly earned a reputation for integrity, reliability, and exceptional workmanship.

Relocating to Serenity Lane, the Brauns ordered a long rustic table and matching chairs to suit their aged wooden kitchen decor.

At $200 for the job, Karmin commissioned Tom the Trucker to deliver the order and assemble the pieces.

- According to Torah law, is Karmin required to pay Tom’s heirs for the uncompleted job?

What’s the Law?

Please email us with your comments, questions, and answers at weekly@projectfellow.org

Last Issue’s CASE 270: Rental Return?

The Friedman’s two week vacation in the Golan Heights came to an abrupt end, one week in - after the IDF insisted that they vacate their rental cottage. Security conditions warranted a military outpost on its roof.

The Friedman’s refused to pay the landlord for the week that they were unable to live inside.

What’s the Law?

The Answer:

If the army took over numerous homes in the area in a manner which made it unlivable, the Friedman’s need not pay for the second week.

If this was the only home in the area which the army took over, if the Friedman’s already paid for the second week, Beit Din could not require the lessor to return the money.

Detailed Explanation:

Rental Return invokes the following laws.

- A (leasee, socher) rented an animal from B (lessor, maskir) to perform a specified task. Due to an unforeseen occurrence, the animal’s functionality, became temporarily severely compromised.

B ( les sor, maskir) can require A ( leasee, socher) to wait until the animal regains its full

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functionality, allow the service to be rendered, and then bill A (leasee, socher) accordingly, for the postponed service [Choshen Mishpat 310:1, Sm’a 2].

- A (leasee, socher) rented an animal from B (lessor, maskir) to perform a specified task. Due to no irresponsibility on A or B’s part, the animal died while performing the task.

If the first part of the job is financially beneficial to A (leasee, socher), A pays for the first part of the job.

With regards to the half of the intended service never rendered, no one was at fault. It was rather a result of a fateful mishap. But to who’s “fate, or mazal” do we attribute this mishap?

As such, A (leasee, socher) is absolved from paying for the non rendered service. [Note 1: Under certain conditions, (see subsequent issues,) A (leasee, socher) can require B (lessor, maskir) to provide him/her with a fair replacement.]

- A (leasee, socher) rented an animal from B (lessor, maskir) for a specified interval. The animal did not die, but its functionality became temporarily severely compromised and would recover only after the prescribed time.

B will be able to benefit from the animal after the termination of the rental interval, we attribute the mishap to B’s “fate”.

As the animal’s death will affect B beyond the termination of the rental interval, we attribute the mishap to B’s “fate”.

With the animal’s death affecting B beyond the termination of the rental, we attribute the mishap to B’s “fate”. If however, the army took over the rental home, and no other home in the area, Machane Efraim attributes this mishap to A’s (leasee, socher) fate. Hence, A (leasee, socher) must pay for the agreed rental price irrespective of whether he/she benefitted from the animal or not [Nesivos Choshen Mishpat 310: 2, 3].

Q. Should an army temporarily unforeseeably take over the rented home for the duration of the rental period, in a manner which makes the home unlivable; to whose fate do we attribute the phenomenon?

- Nesivos [ibid.] understands this phenomenon as such, that it would have occurred irrespective of whether A was renting the home; very similar to a situation where the regime was searching through the homes to impound animals. Accordingly, Nesivos attributes this phenomenon to the B (lessor, maskir)’s fate, and thus absolves A (leasee, socher) from paying for the time he/she was unable to live in the home.

- Machane Efraim [Hilchos Sechirus 6] agrees with Nesivos, if the army were to overtake numerous homes. However, if the army only took over the rental home, and no other home in the area; Machane Efraim attributes the phenomenon to both A’s and B’s fate. As such, Machane Efraim compromises and rules that while A need not pay for the time he/she was unable to live in the home; if A already paid for the time he/she was unable to live in the home, we would not compel B to return the money.

Conclusion:

When two valid conflicting Halachic views exist, the Lower Court employs the formula of hamotzi mechaveiro alav harayh (leaving the Heavenly Court to set the record straight) and permits the status quo to continue. As such, practically, though we would not compel A to pay for the time he/she was unable to live in the home; if A already paid for the time he/she was unable to live in the home, we would not compel B to return the money.

If however, the army took over numerous homes in the area in a manner which made it unlivable, the Friedman’s may even demand a refund for the second week, as all authorities attribute this phenomenon to the fate of the lessor.

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