

A Yored: The Fee When It's Free

Paying for Unsolicited Services

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One may think that

the Halacha of *yored*

does not often apply. According to the Gemara, a person who completes a job

without the owner asking for it, is called "*yored l'toch sodeh chaveiro shelo b'rshus*" – a person

who goes into his friend's field without permission. In this case, if the worker provided a direct benefit to the owner, he can charge for the job.

Does a situation

involving *yored*

really happen nowadays? After all, how often does a person complete a job when he is not asked at all to do it? However, there are many circumstances where *poskim*

do rely on the Halacha of

yored

in order to determine the responsibility for payment for a job or service.

The Halacha of *yored* plays

itself out in many cases:

Case #1: The Wrong Siding

A case came to *beis din* involving

a homeowner who had ordered new siding to be installed on his home. The siding

was delivered in the wrong color and was installed. Was the owner responsible

for payment if he did not receive the exact siding which he had ordered?

The siding did

upgrade the overall quality of the house, even though it was not to the homeowner's taste. Since this did provide a benefit to the homeowner, the Halacha of *yored*

does apply and the owner is obligated to pay for the siding.

Case #2: Having It Out with the In-Laws

The Shulchan Aruch

brings a case in the name of the *Terumas Hadeshen*.

It was customary in those days for a son-in-law to move into his father-in-law's

house for the first few years of marriage, while the father-in-law supported the young couple. In this situation, the father-in-law had committed to support

his son-in-law for two years. Once the two years passed, the couple continued

to live in the father-in-law's house.

After the fourth

year, the father-in-law decided that it was time for the couple to move out.

The couple agreed to look for a new place to live. The father-in-law then

told

his son-in-law, "We had an agreement that I would support you for two years, which I did. You stayed for an extra two years, and now I would like you to pay

me for those extra two years of food which I gave you." The son-in-law replied

that he had assumed that if his father-in-law gave him food, it was free of charge.

The *Terumas*

Hadeshen says that one must never assume that something is given for free. If a person does a service for you or gives you food, you must pay him if he asks for payment later on.

This is true even if he doesn't mention payment at the time that he is doing the service. According to the concept of *yored*, if a person derives benefit, he has to pay for

it, regardless of whether the terms were agreed upon beforehand. If the worker

gave you pleasure, fed you, sustained you, or upgraded and improved your asset,

he can charge for it afterwards. Even if the worker is a close relative, one should never assume that he is doing it for free.

Case #3 Commissioning Relatives

A *shaylah* was brought before R' Elyashiv involving a man in America who had lost a loved one and was traveling to Israel to bury his relative. The American called his Israeli relative and asked him to find them a *kever*. The Israeli man asked R' Elyashiv if he could incorporate a commission into the *kever* fee. If the *kever* was selling for \$8,000, he would charge \$9,000 and arrange with the *chevra kadisha* to receive the \$1,000 as commission. However, the Israeli man was uncomfortable telling his American relative that he was taking a commission.

R Elyashiv *paskened*

that assuming there is a market for this service, and that it is normal practice

for a broker to receive a commission, then one is allowed to incorporate a commission into the basic price. One is entitled to the industry standard for commission and the customer is obligated to pay it. As long as the customer agreed

to the price beforehand, he does not have to know that a percentage of the price is a commission.

If there is a

misunderstanding between the two parties, and a clear price was not established, the Halacha of *yored*

does apply. In circumstances where the obligation to pay is in question, the worker should seek *choshen mishpat*

consultation to find out what his rights are, or go to a *beis din* or a knowledgeable third party.