

All Sales Are Final

Rav Yosef Greenwald, Rav of Khal Dexter Park and Dayan in the Bais HaVaad

Question: Stores often run sales where they offer lower prices but explicitly say that, "All sales are final!" and no returns will be accepted. Does that mean that a customer has no recourse if he finds that a product which he bought at such a sale is damaged?

Answer: The definition of *mekach ta'os* is that if someone does not get what he paid for, there is no sale, and never was one. If someone orders and pays for Item A, and receives Item B instead, there is no sale and he must be given his money back. If someone receives a damaged item, it is clear that this is not what he paid for; rather, it is a completely different item. This means that the sale never was consummated at all. If the money was already transferred from the buyer to the seller, the seller is now holding the buyer's money and must return it. If he doesn't return the money, he is an outright thief.

Some stores have a policy of not offering any cash refunds; they only give store credit. If the item is truly broken or inferior, such a policy would be forbidden by halacha. Since there never was a sale, the store now has the buyer's money in their possession. Offering him only a store credit and refusing to return his money would be theft.

That being said, the context of a sale might play a role in determining if it is a true *mekach ta'os*. If a store holds a mega end-of-season sale and it's very clear that some of the merchandise might be damaged, it is possible that the very inexpensive sale prices reflect the fact that the buyer is aware that he may be purchasing damaged goods and accepts that, which would mean that he has no claim of *mekach ta'os*. But if the flaw in the product is clearly something that was not expected, we would return to the laws of *mekach ta'os* and the sale would be considered null, as if it never occurred.

Question: What if a storekeeper prominently hangs a sign proclaiming "No Refunds" on anything in his store? Is he allowed to sell with a *tenai* (condition) that no customer should have a claim of *mekach ta'os*?

The Shulchan Aruch rules that such a *tenai* is not binding. The explanation of this is that a customer can't be forced to accept the sale no matter what problem he may find with the item. If he thinks he's receiving Item A, and ends up with Item B, it cannot be said that he agreed to the deal in advance and contracted for that.

Sponsored by:

Worldesk

Cheap and fast way to send money abroad.

Protect your profits and avoid the risk that comes from international transactions.

<https://worldesk.com/bais-havaad> | Shiko@worldesk.com | 646.772.7000