

## **Rav Chaim Weg**

June 11, 2020

**Case:** Due to Covid-19, a business owner does not have sufficient work to give to his employees. The owner decided that he would ask them to reorganize his office and storeroom. But the employees refused, arguing that they were not hired to perform such jobs. The employer responded that since he is paying them their salary and he has no other work to give them, he has the right to ask them to do what he requests.

**Question:** Who is halachically correct?

**Answer:** This case is discussed clearly in the Shulchan Aruch (C.M. 335:1). According to the Shulchan Aruch, if an employer hires an employee for a full day to do a specific type of work and the employee completes the job after only a half-day has passed, the halacha is as follows:

If the boss has a similar or easier type of job, he can force the worker to do it. If the worker refuses, then he loses a portion of his salary. Moreover, if the boss offers the worker to do work for a neighbor or a different business that is easier or of the same degree of difficulty as his original work, the worker must do so if he wishes to receive his entire salary for the day.

If the employer only has work that is more difficult available, then it depends on whether the worker would have originally accepted such a job if it was offered to him for higher pay. If he would have, then the employer can force him to do the more difficult work and pay him the difference. However if the employee would not have accepted such a job, then the employer cannot force him to take this job, and the employer would be responsible to pay him for the entire day, but only at the rate of a *po'el batel*, a worker who is hired to be idle (which is a significantly less amount of money).

It stands to reason that in the case under discussion, an employee who was hired to sit at a computer to do office work would not have initially accepted the job if it entailed

primarily reorganizing stock and other physical labor. Therefore, the employer must pay the employees their salary for this time even if they refuse to do the job, but only at the rate of a *po'el batel*.

**Question:** Can an employer give the employee “busy work” instead?

**Answer:** The Torah prohibition of *lo sirdeh bo b'farech* with regard to an *eved ivri* (Jewish servant) refers to not giving him pointless work that does not accomplish anything. Many *poskim* say that although it is halachically permitted to give such work to one who is not actually an *eved*, nevertheless a fellow Jew should not be treated this way due to ethical reasons.

One could theoretically argue that even the ethical considerations for not giving busy work to a Jew apply only to someone who cannot refuse one's request. However, since an employer pays an employee for his time, and the employee can decide at some point if he wishes to stop working and forego the rest of his salary, it might be permitted to give him such work.