

Borrowing an Item Where the Owner Does Not Mind

Rabbi Chaim Weg

Case: Reuven met his friend Shimon on the street who told him that he had the latest recording of a *shiur* delivered by their Rosh Yeshiva on his laptop. Reuven did not have a USB drive with him with which to take a copy of the *shiur*, but his brother lived down the street. When Reuven went to his brother's house to borrow one, his brother was not home.

Question: May Reuven enter his brother's house (assuming that it is unlocked or he has a key) and borrow a USB drive with intent to return it later? In addition, while he is there, is he permitted to take a drink or something to eat?

Answer: At first glance, it would seem to be problematic to temporarily borrow the USB drive without permission, since the halacha is that a *sho'el shelo mida'as* (one who borrows without permission) is considered a *gazlan* (thief).

On the other hand, there is a *machlokes poskim* whether one may take an object from a person without his knowledge if he knows that the owner will be happy that he benefited when he does find out (which is similar to the scenario of *ye'ush shelo mida'as*, where someone has not yet discovered that lost an object but will immediately despair of getting it back when he discovers it is missing).

In truth, one can distinguish between two categories of objects with regard to this issue. One category includes those items that are used up and cannot be returned, while the other includes items that are not used up and can be returned.

According to the *Minchas Pitim*, all opinions agree that it is permitted for a *sho'el shelo mida'as* to borrow an item that is not used up if one knows the owner will be happy to lend it to him, since the item will be returned shortly thereafter. But taking something that is used up and cannot be returned is subject to the *machlokes* mentioned above. The *Shulchan Aruch HaRav* states that if a person is not *makpid* about anyone taking items that are used up, it is still permitted to take them even without explicit permission. Consequently, in our scenario, entering one's brother's house and taking the USB drive without permission would be *mutar* according to all opinions, assuming one is certain that his brother does not mind him entering his house and using it. Since the USB drive is an item that will not be used up and will be returned shortly thereafter, if the brother is happy to allow him to benefit from it, borrowing it temporarily is permitted.

Taking food from his pantry would be subject to *machlokes*, since the food is used up and will not be returned. According to the *Shulchan Aruch HaRav*, it would be permitted to drink water from the tap (using one's own cup), since no one is *makpid* about taking water from the tap without permission.