

Do I Have to Pay a Painter Who Painted My Office the Wrong Color?

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Question: I hired someone to paint my office. When he finished the job, I saw that the color was slightly different than what we agreed upon. I really prefer to redo the job entirely, but if Bais Din were to tell me that I need to pay for the job, I would just keep it as is. What is the halacha in this scenario?

Answer: I was once asked a similar question; however, in that instance, someone's office was painted in a color that he felt was detrimental to his business. He had wanted a calm color and the painter had used a brighter, louder color, which he felt would harm his business. Since it would have to be repainted, the painter would not need to be paid for the first job, as one does not have to pay a *yored* whose work is not worth anything to him. The case in question is a borderline case because the owner says is technically okay with the job if he'll have to pay for it. The halacha in this case would be that he doesn't have to pay the painter as an employee because he didn't do the job he was asked to do; instead, he would only have to pay the value of having his office painted.

Even if the owner says that he isn't interested in the job that was done and he wants the painter to undo it, that wouldn't really be possible with a paint job, as this is something that cannot just be undone. If one can make such a claim in a case like this is subject to a *machlokes* Acharonim. The Nesivos Hamishpot says that if it isn't possible to take the upgrade back, that claim cannot be made. The Chazon Ish disagrees and says that the owner always has the prerogative to make this claim and he can use it to refuse to pay for a paint job he doesn't want.

If the case would go to Bais Din, the ruling would probably depend on who is the *muchzik*. If the painter hasn't been paid yet, the owner would be the *muchzik* and he would be able to exempt himself from paying if Bais Din sees that there is substance to his claim. If the painter has already been paid, he would be the *muchzik* and he could keep the value of the paint job.