

Does a Power-of-Attorney Have The Same Power as a Harsha'ah?

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Question: Two people come to beis din. Reuven comes on behalf of the claimant, Levi, for whom he has a legal power-of-attorney. Levi himself is incapacitated and is unable to come to bais din himself. Can the defendant, Shimon, say "*lav baal devarim didi at*", you are not my litigant, and refuse to deal with Reuven?

Answer: The question is whether a legal power-of-attorney is considered a full "giving over" of power, that would work like a *harsha'ah*.

For example, a durable power-of-attorney is effective to sell a house on someone's behalf even after he becomes incapacitated because the individual gave over the right to make his monetary decisions to the attorney; however, it does not work if the *meshalayach* dies, as power-of-attorney expires when a person passes away. A *harsha'ah*, on the other hand, is valid even after the *meshalayach* dies, which takes away the defendant's ability to say "*lav baal devarim didi at*." In a regular case of power-of-attorney, the defendant would technically be able to refuse to deal with the representative by claiming that perhaps the *meshalayach* has died.

Practically, if a party does not make this claim in bais din, the bais din will not make it for him because the *shlichus* technically should be good enough to work and we do not suspect that the *meshalayach* died. Thus, a party may be able to say "*lav baal devarim didi at*" to someone who has power-of-attorney, but bais din will not say this for him and they will allow the case to continue.