

If a Partner Uses His Own Personal Warehouse, Are the Others Obligated to Pay Him Rent?

**Rav Yitzchok Grossman**

**Question:** If one partner in a business allows the partnership to use his warehouse to store their merchandise, can he demand to be paid rent?

**Answer:** The halacha is clear that if a partnership uses one partner's property – such as his warehouse or truck – he is allowed to charge the partnership rent. The *Pischei Choshen* says that presumably this is only true for something on which rent is commonly charged. If one partner would just do a small act, like driving some merchandise a short distance in his car, that would probably not be something for which he could charge. However, he can charge rent for anything that it is normal to charge rent for, which would include a warehouse or truck, even without an explicit agreement granting him this fee for use of his assets.

The basis for this ruling is the Gemara that says that if someone goes into someone else's field without permission and makes improvements, he is allowed to charge the owner for the improvements he made. If someone goes into a field with permission, he can charge for his services even if the work did not succeed and no improvements were made. Some Poskim say that a partner is considered to be working on behalf of his friend with permission; therefore, if he personally used his assets to help the partnership, he can charge for his efforts even if they did not work out and there ultimately was no benefit from this contribution. Other Poskim disagree and say he is not completely considered to have permission to act on behalf of all the partners, and he can only collect if there was some benefit.

**Question:** What if he did not use any assets to help the partnership, but provided services, such as doing the accounting or organizing the warehouse. Can he charge for this service?

**Answer:** There is a *Nesivos* that says that even though a partner can charge for providing assets, he cannot charge for providing a service. He explains that the other partner can claim that had he been informed that this service was needed, he would have done it himself.

This is a little difficult to understand because every time someone improves someone else's property, the halacha is that the owner is obligated to pay him, and he cannot claim that he would have done it himself.

Other *Acharonim* disagree with the *Nesivos* and say that providing services is the same as providing assets, and if they are services that one typically charges for, the partner who does them can charge for them.

Some Poskim suggest that even according to the *Nesivos*, if one partner would perform a particularly degrading or difficult service, he could charge the other partners for his work, as they would not be able to claim that they would have been willing to do it.