

If Someone Has an Exclusive Agreement With a Broker, is There Any Way to Avoid Paying His Commission?

Rav Aryeh Finkel

Case: I was looking to sell my house and I signed an exclusivity agreement with a real estate agent for three months. During that time, I bumped into a friend of mine who told me that he is looking to buy a house. I want to close with him, but I don't want to give a commission to the agent because I did the work on my own.

Question: Am I allowed to cut him out?

Answer: Once a contract is signed, there is no way to wiggle out of it. The only thing you could do to avoid paying the broker is to wait out the three months of the exclusivity contract and come to a deal with your friend afterwards.

If the broker finds you a potential buyer before the end of the three months, the halacha is that you cannot reject that offer for no good reason. The Rosh says that if someone hired a broker to find him someone to buy his house, and the agent finds a buyer who the seller rejects because he "hated" this particular person, the seller does not have to pay the broker his commission. We see that the seller needed at least some reason to justify his unwillingness to sell to the buyer found by the broker. If he has no justifiable reason to reject the buyer, he would have to pay the broker his commission.

In this case, the seller would have to hope that the broker doesn't find any buyers before the end of the three-month period or that he would have some justification to reject a buyer that he does find. Otherwise, he would have no way to avoid paying the commission.