

## Is a Camp Responsible For a Bag Lost From Its Luggage Truck?

Rav Chaim Weg

**Question:** A parent was sending his son off to camp. The camp provides a luggage truck to camp for an additional fee. The parent was told to load the luggage onto the truck, and when he did so was given a receipt for the bag. When the truck arrived to camp and was unloaded, the son's bag was not there. Is the camp responsible to pay for the loss?

**Answer:** A similar case is discussed in the Teshuvos HaRosh.

Reuven had a pair of shoes that he wanted to send to a certain town. He found a wagon driver who was heading out to that town and asked if he could send his shoes with him. The wagon driver told him to put the shoes on the donkey and drove away. Later, he stopped somewhere and walked off for a time, and the shoes were stolen in interim. The Rosh rules that the wagon driver is obligated to pay for the shoes.

There are two basic explanations for this ruling.

The Sema explains that although a person usually has to clearly say that he accepts to watch an item in order to become a *shomer*, and the wagon driver did not say that, here the circumstances clearly show that he did accept to watch the item. He knew that Reuven was putting his shoes on his donkey and he was going to ride away with them, which would take them out of Reuven's domain. Since he allowed Reuven to put the shoes on his donkey, it is obvious from the circumstances that he did accept responsibility for the shoes.

The same can be said in the story of the luggage truck. When the camp told the parent to put the luggage on the truck, they knew that they would be leaving with the bags on their truck, which is understood to be an acceptance of responsibility for the luggage. Therefore, the camp becomes a paid *shomer* and has to pay if the luggage is lost.

The Nesivos Hamishpat says a different explanation in the Rosh. He says that even though the donkey driver never accepted the responsibility of watching the shoes and does not become a *shomer*, he did cause damage to the shoes by taking them to an insecure location. Therefore, he is considered to be a *mazik* and is obligated to pay even though he is not a *shomer*.

According to this explanation, the camp would still be obligated to pay for the luggage, although they would be liable as a *mazik* and not as a *shomer*.

**Question:** If the parent who put his son's luggage on the truck works for the camp would that impact the halacha?

**Answer:** According to the Sema, who says that the camp's liability would be that of a *shomer*, if the parent works for them it would be a case of *baalav imo* and the camp would be *patur*. According to the Nesivos, the camp's liability is that of a *mazik*, consequently they would be *chayav* according to the opinions that *baalav imo* does not exempt a *mazik* from paying.