

Is a Shomer Sachar Liable for a Non-Preventable Geneivah?

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Question: I offer a service for people to give me their valuables for safekeeping in exchange for a fee. I am well known in my neighborhood for what I do and for what my house contains; therefore, I know that I am a target for potential thieves. For this reason, I have a license to carry a gun and it is known that I will use it if necessary. Recently, I had a medical emergency and had to be taken to the hospital by ambulance. Word of this got out, and my house was robbed. Am I liable to pay?

Answer: Since you are being paid, you are a *Shomer Sachar* and you are liable for *geneivah* and *aveidah*.

However, this case is not the same as a normal *geneivah* because a typical theft is somewhat preventable. A *Shomer Sachar* is supposed to sit and watch the item he is entrusted with; therefore, if it is stolen in a way that was somewhat preventable, the *Shomer Sachar* is *chayav* for not watching it well enough. In this case, however, the theft was totally unpreventable since the *Shomer* had been taken away by ambulance.

There is a *machlokes* Rishonim if a *Shomer Sachar* is liable for an unpreventable theft like this. The Shach rules that such a case is considered to be an *oines*, and the *Shomer Sachar* is not liable. Since he is the *muchzik* and has this opinion on his side, it would be impossible to force him to pay. However, if he was not yet paid for his services, the owners of the valuables are not liable to pay him for his services.