

Leeway in Work Hours

Rabbi Baruch Fried

Case: I run a company with mainly frum workers. I noticed many of them spend quite a while on coffee breaks. They already take off time for the lunch break that their contract allows, do I have to allow these additional breaks?

Question: How many breaks can an employee take?

Answer: It's worth noting that Halacha's work ethic is remarkably high. Shulchan aruch [CH"M 337:19] quotes the Rambam "A worker must take care not idle a little here and a little here, rather, he must be diligent with his time... and he must work with his full strength, as Yaakov [Avinu] the Righteous said "I worked with all of my strength for your father [Lavan]." Conventional Halacha would require that a hired worker must work from sunrise until nightfall, with practically no breaks.

Despite this, the Yerushalmi here famously applies the rule *minhag mevatal halacha*, common custom overrides the default halacha. This means that any well-established business practice becomes the de-facto agreement unless it was clearly specified otherwise. Just as [almost] no modern employer expects his employees to be there at daybreak, other established "givens" are also part of the employee's rights. Common office culture does allow for a certain amount of coffee breaks and even a bit of water-cooler small talk, and an employer cannot insist his employees do otherwise unless previously stipulated.

On the other hand, any extra time spent beyond what is normal is considered outright embezzlement from the employer, as the Shulchan aruch stresses. A Frum employee must be very conscientious with his time at work, preferably erring on the side of caution to ensure he isn't shortchanging his employer.