

Making Private Calls During Work Time

Rabbi Chaim Weg

Question: Is it ever permitted to make private phone calls during one's work time? Does it matter if the call is very important? In addition, is it permitted to use inexpensive items belonging to the company for personal needs, such as pens, paper, or paper clips?

Answer: The work time of an employee who is paid by the hour is literally sold to the company. During this time, the halacha obligates him to do his work and not take care of his own needs. The Rambam explains that Yaakov Avinu merited great wealth due to his honest work ethic when working for Lavan. Yaakov dedicated himself entirely to his work (see Bereishis) and never took time off improperly.

The Shulchan Aruch is also very clear that such an employee may not take off occasionally from working and then demand payment from the boss for that time.

Nevertheless, the most important principle within the halachos of *sechirus poalim* (hired workers) is "*hakol k'minhag hamedinah*," "everything follows the local custom." Thus, one must generally be careful not to charge for time that one did not actually work. However, whether taking a few minutes off is permitted depends upon the local minhag. If in a particular industry and region it is acceptable to make an important phone call while working, it would be *mutar* to do so halachically, as that would implicitly be considered part of the terms of employment.

The same applies to using a company pen to jot some notes on a personal to-do list, or using an envelope, paper clip, or printer[E02] for one's own needs. If it is generally accepted that the owner of the company allows his employees to use the office supplies for such needs to create a more pleasant work environment, it would be permitted (within reason).

We should note in this context that the Sefer Chasidim clearly states that one who is *mocheil* (waives his right of ownership) because he is embarrassed is not considered as having expressed true *mechila*. Therefore, if an employee takes or does something that is not customary, if the boss does not say anything to him simply because the boss is embarrassed, it would not be considered a valid *mechila*. Consequently, the employee would violate *gezeil* (theft) without first obtaining permission.

Question: The above guidelines are relevant for employees compensated by the hour. Are they also relevant for a project or salaried employee?

Answer: Someone who is paid by the project or has a certain amount of work to

complete is referred to by Chazal as a *kablan*. He is permitted to take off time from work since his time is not actually sold to the owner.

Nevertheless, even those who work by the project often are required to put in a set number of hours on the job (e.g., 9 am-5 pm) in an office setting. Thus, such a person must still be careful to work the required number of hours in the office and not waste too much time (even if he completes the job properly). If he does, he would be charging the employer for time in which he did not work in the focused, disciplined manner that the employer expects, and would violate *geze/* by getting paid for it.

In contrast, one who works from home, such as one who builds cabinets, would be permitted to charge for completing the project, since he was never expected by the customer or employer to work certain hours in an office setting.