

May a Shomer Take The Same Risks With Property in his care That He Would Take With His Own Property?

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Question: I live in an all frum complex in Lakewood. One evening, my nephew biked over to play with my kids. Later on, his father picked him up to drive him home. He said that he would pick up the bike tomorrow and asked if I could watch it overnight. I said that I would watch it and I left it in the same spot outside where I keep all of my children's bikes. Unfortunately, the bike was stolen overnight. Am I responsible to pay?

Answer: When someone accepts to be a *shomer*, he is responsible to guard the object "*k'derech hashomrim*", in a fully responsible manner. The Gemara describes certain cases that depict how it was considered responsible to watch items in the times of Chazal. The Shulchan Aruch sums it up by saying that in every place and time, the *shomer's* responsibility is to watch *k'derech hashomrim*, which, generally speaking, is the same way that one watches and protects his own possessions. However, it is clear from Rishonim that this is talking about circumstances where one watches and protects his own items.

With one's own property, one is permitted to take risks, and people often do take calculated risks with their own possessions. However, just because you're willing to take risks with your own items, that doesn't give you permission to take that risk with someone else's item that you were entrusted to watch.

Leaving bikes outside overnight and not putting it in the shed is a risk, even in an all frum complex. Therefore, even if you take that risk with your own bikes, you may not take such a risk with a bike that you are watching as a *shomer*. If one does so, he is liable to pay if it was stolen.

It should be noted that when the borrower pays for the bike, he does not have to pay to replace it with a brand-new bike. He only has to pay the value of the used bicycle that he lost. Even if the owner will have to purchase a new bike to replace the one that stolen, the *shomer* only has to pay the value of the used one that he was responsible for.