

May An Employee Quit Mid-Contract If He Receives a Better Offer?

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By Rav Eliezer Cohen, Dayan on the Bais Hava'ad L'Inyanei MIshpat and Rosh Kollel of Kollel Choshen Mishpat in Cleveland and Lakewood

Question: In a certain town, there is a successful, established company which has the means to offer generous compensation and benefit packages for its workers. This company has a practice of hunting for talent by keeping an eye on smaller start-up companies and identifying their young, skilled employees. They then offer these individuals higher salaries and benefits to convince them to leave their current employer and come work for them instead.

Is the employee permitted to leave his current job to accept this more lucrative offer?

Answer: It seems to be a fairly common practice for large companies to hunt for talent in newer, smaller companies and hire them away with better offers. Whether they are allowed to do this or not is a serious question; however, our discussion today will focus on whether or not the employees may quit in the middle of a contract to accept the offer.

As we mentioned previously, a worker who is paid by the hour may leave his job at any time. He has this right because we learn from a verse in the Torah that a worker is not permitted to be treated like a slave, and if an hourly worker would have to do whatever his boss orders him to do, with no option to leave the job, he would be similar to a slave. This is true even if an hourly worker has a contract to work for a specific length of time.

The Rema, however, states that there is a caveat to this rule. He explains that an hourly worker may quit his job if he no longer wishes to work; however, if he wants to quit so that he can accept another job, even if the new job pays more, he is not permitted to do so. This is because he is simply switching from working for one employer to working for another, and is not escaping from his "servitude".

Rav Akiva Eiger issues the same ruling as the Rema, and says that if someone wants to leave a job in the middle of his contract to accept another position, even if he has a good reason for doing so, he is not permitted to break his contract.

The *Pischei Teshuva* says that some workers tried to avoid this problem by simply taking a few weeks off from work after leaving one employer and then beginning to work for another. He says that such a scheme is unacceptable.

From a practical halachic perspective, however, there may be a way to get around the prohibition. The Aruch Hashulchan explains that the Rama does not mean that a worker may not accept a better paying job; rather, his intent is that if the worker does leave a job in the middle of a contract, he must reimburse the employer for any expenses he causes him. For example, if the employer had to offer a higher salary to find his replacement or had to pay to advertise the available position, the worker would be obligated to

reimburse him that amount. If the employee does not want to be forced to pay even that much, he will have to take a break from working for a few months before accepting a new job.