

May One Rescind a Hiring in Favor of a Relative?

Rav Eliezer Cohen

Question: A business owner hired an individual for a certain job. Shortly thereafter, he discovered that a relative of his had moved to town and was looking for employment. He now wants to rescind the hiring and give the job to his relative. Is he permitted to terminate the man he just hired?

Answer: In halacha, doing something like this is considered terminating without cause, even if the employee has not begun working yet. Once someone has been verbally promised a job, it is deemed improper to take back the offer without a good justification.

The source for this is found in the first Mishnah in the sixth *perek* of Bava Metziah. The Mishnah states that if someone promises employment to a worker and subsequently backs out of the arrangement without a good reason for doing so, the worker may have “*ta’arumos*”, grievances, against the prospective employer.

This fascinating aspect of *Hilchos Sechirus* is discussed at length by Rav Yisroel Salanter in *Sefer Ohr Yisroel*. We know that one is obligated to compensate his friend if he causes him a monetary loss, but we see from here that one also has some obligations even if he did not actually cause any financial damage. The Torah goes so far as to sanction the aggrieved party’s right to have complaints against the one who wronged him.

Rav Elyashiv, in *Sefer He’aros*, explains that the Torah wants us to be very careful not to do anything that will lead people to have complaints against us. Since we don’t want people bearing grudges against us, if one does something that creates hard feelings, he should offer some form of compensation to the individual in order to placate him. The Talmidei Harasha state that it is a “*middas chassidus*”, a pious behavior that goes beyond the letter of the law, to offer this compensation and pacify the hurt party.

In short, one should take all factors into consideration before finalizing any agreement and should be 100% serious before making any promises that he may later regret. An underlying message is that hiring workers is not a “*hefkervelt*”. It should be well thought-out and never done haphazardly. One’s word is very important, and he should be very careful never to put himself in a situation where he may have to back out of a commitment.

Although we have explained that it is proper for the employer to offer some form of compensation, the Tiferes Yisroel writes that, nonetheless, this does not fall under the

category of "*latzeis yedei shomayim*", a Heavenly obligation. In some instances, for example in certain cases where one causes an indirect damage, even though the plaintiff is not obligated to pay according to the letter of the law, Bais Din may advise him to make restitution in order to fulfill his "Heavenly responsibility." In our case, Bais Din will not get involved and advise the employer to pay.

This is because although the employer should offer compensation to pacify the employee and take care of his grievances, this is a conclusion he must reach in his own heart. He must decide on his own that he wants to go above and beyond and fulfill the "*middas chassidus*".

We find a number of explanations in the Rishonim as to why the employee's complaints are sanctioned. The Ritzvah says that although he had no monetary loss, he does suffer embarrassment. He probably told his friends that he had found employment and would be starting to work soon, and now he has to tell them that his job did not work out. This will cause them to look at him in a negative way and will cause him shame. For this reason, his complaints are considered justified. Tosafos says that the reason he is justified in having complaints is because he will now have to exert time and energy to hunt for a new job.

To conclude, the main lesson of this halacha is that one should never make any commitment to a worker or finalize any agreement unless he is certain that he wants to go ahead with the deal. Keeping one's word is a very serious matter.

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