

May One Retract on an Agreement to Sublet a Summer Home

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Case: Reuven agreed to rent his summer home to Shimon and received a deposit from Shimon for it. Shimon then decided he no longer wanted to use the house, and instead agreed to sublet it to Levi. Levi, in turn, was supposed to give the amount of the deposit to Shimon and then pay the rest of the money to Reuven.

Question: But time went by and Levi still had not yet paid Shimon or Reuven. At some point, Reuven decided that he wanted to retract and hold onto the house for his children to use. Is Reuven allowed to break the deal with Shimon?

Answer: Let us analyze this case from a halachic perspective of whether the agreements effected between the various parties are binding. Shimon gave Reuven a deposit to secure the rental, which many *poskim* hold is considered to be a valid halachic *kinyan*. This thereby gives Shimon ownership of the house. However, Levi never effected any *kinyan* (such as giving money) to consummate his agreement with Shimon to sublet the house. Thus, this agreement between Shimon and Levi remains a verbal one only.

If Reuven then wants to retract on his agreement with Shimon, who currently owns the house, Reuven is essentially asking Shimon for a favor to retract his acquisition of the house. In theory, Shimon is certainly allowed to agree to Reuven's request, but is Shimon permitted to retract on his verbal agreement to Levi?

Normally, one is not supposed to retract on a verbal agreement with another for no reason. However, in this case, the situation is different than when it began, as Shimon expected a more prompt payment from Levi of the deposit money.

This scenario where a change occurred during the course of the transaction is known in halachah as a case of *trei tarei*. In such circumstances, the Rema (C.M. 204) cites some opinions that one is not obligated to uphold his word. Although the issue is subject to dispute (and even the Rema himself prefers the more stringent opinion), some *poskim* do rule that this opinion is accepted as the practical halachah.

It would therefore seem that there are *poskim* to rely upon in this case to allow Shimon to retract his agreement with Levi and simply ask Reuven to refund his deposit, if he wishes to do so. Levi will thus be compelled to search for an alternate summer home.