

Weather Service: Pressuring Employees to Travel in a Blizzard

Adapted from the writings of Dayan Yitzhak Grossman

December 29, 2022

Last week's forecast was dire:

A major winter storm and cold blast will impact nearly every state and bring what the National Weather Service is calling a "once in a generation type event" that will cripple travel on some of the busiest travel days of the year.[1]

In this article, we consider a striking and graphic discussion in the halachic literature revolving around the danger of travel during extreme winter storms.

R' Eliyahu of Lublin (17th-18th cent.), author of *Yad Eliyahu*, discusses the terrible case of a man who pressured his young servant to travel on a business errand for him through brutal winter storm conditions. On the return trip, the young man got stuck and lost at night in an enormous snowstorm, with snow piled to the height of a man. He eventually was overcome by exhaustion and could go no further. He begged his travel companion to wait with him, but the man understood that doing so meant death and insisted on pressing on. The next day, a search party found the young man frozen to death.

The question addressed by R' Eliyahu (and an unnamed authority he cites) is whether the employer who sent the young man on the journey that resulted in his death is considered guilty of manslaughter and in need of atonement. (From the time of the chasidei Ashekenaz in medieval Germany until relatively recently in Jewish history, this meant rigorous, formally prescribed penance, including fasting and other forms of self-mortification.[2])

R' Eliyahu's colleague begins by noting that a number of distinguished early authorities maintain that one who sends an agent on an errand is morally accountable for the agent's accidental death in the course of his service, even absent any negligence on the sender's part.[3] He himself dissents from this view and argues that in general the sender is not responsible. But he agrees that in this case he certainly is and requires great atonement, due to his gross irresponsibility in persisting in sending his servant out in the terrible weather. (Everyone else, including the employer himself, had canceled their travel plans due to the weather, and the employee had been most reluctant to venture out in the terrible conditions, and he had argued with his employer for half an hour before finally caving to his demand.) He prescribes penance including forty days of consecutive fasting, followed by three days of fasting per week for three years, and the visiting of the agent's grave every Erev Rosh Chodesh to seek his forgiveness, in addition to other prescriptions.

R' Eliyahu himself is even stricter than his colleague. He defends the position of the earlier authorities that the sender is always accountable for the agent's death, even in the absence of any negligence. He asserts the need to make an example of the sender by the imposition of extreme

stringency upon him, to publicize the severe wrongdoing involved in behavior of this kind, which R' Eliyahu laments was far too common in his time.[4]

There are numerous other aspects of the positions and arguments of R' Eliyahu and his colleague that we have not mentioned here, but one particularly noteworthy point concerns the distinction proposed by R' Menachem Mendel Krochmal (the Tzemach Tzedek) between a volunteer agent and a paid one. He suggests that with regard to the latter, the sender has no responsibility for his death, based on the implication of Chazal that an employee is permitted to risk his life in the course of earning his wages:

“And for it he risks his life” (Devarim 24:15). Why did this worker climb a high ramp, or suspend himself from a tree, placing himself in mortal danger? Was it not for his wages? (How, then, may his employer delay his payment?)[5]

Although he argues at length in favor of this distinction, he ultimately defers as a matter of practical halacha to the consensus of a number of his predecessors, who make no such distinction. He also records his personal practice of not sending agents into dangerous situations, and his protests against others who did do so, although he ruefully notes that he did not have the power to stop them and they frequently did so against his will. As we have previously noted,[6] a number of major authorities accept the Tzemach Tzedek's basic argument from the cited Gemara that an employee is permitted to risk his life to earn a living. R' Eliyahu, however, rebuts the argument, explaining that Chazal only mean that an employee will sometimes wind up experiencing danger due to his failure to exercise proper caution, and it is therefore necessary to be meticulous regarding the timely payment of his wages. But Chazal did not mean that the employee is permitted to *deliberately* place himself in danger in a scenario of substantial risk (*shechicha hezeika*). He argues further that even the suggestion of the Tzemach Tzedek that an employer is not responsible for his paid agent's accident is limited to where the danger was not originally present but arose in the course of the agent's service. It is not applicable to our case, where the enormity of the danger was apparent from the start, to the extent that no one else was willing to travel, and the employer intimidated or manipulated his employee into doing so against his will.

[1]Aya Elamroussi and Jennifer Gray. A 'once in a generation' winter storm will impact nearly every state and cripple Christmas travel. CNN. <https://www.cnn.com/2022/12/21/weather/christmas-arctic-winter-storm-wednesday-wxn/index.html>.

[2]See Wikipedia contributors. Toras Hateshuvah Bechasidus Ashkenaz. In Wikipedia, The Free Encyclopedia. https://he.wikipedia.org/w/index.php?title=%D7%AA%D7%95%D7%A8%D7%AA_%D7%94%D7%AA%D7%A9%D7%95%D7%91%D7%94_%D7%91%D7%97%D7%A1%D7%99%D7%93%D7%95%D7%AA_%D7%90%D7%A9%D7%9B%D7%A0%D7%96&oldid=34188072.

[3]Shu"t Mahari Weil *siman* 125; Shu"t Maharam Lublin *siman* 44; *Be'er Sheva Sanhedrin* 95a s.v. *Al yadcha neherag Nov ir hakohanim*; Shu"t

Tzemach Tzedek (Nikolsburg) *siman* 6.

[4]Shu"t Yad Eliyahu (Lublin) *siman* 28.

[5]Bava Metzia 112a.

[6]Value Judgment: What's a Life Worth? Bais HaVaad Halacha Journal.
Sep. 17, 2020 (see the sources cited in n. 3 there).