

What is a Shtar Harsha'ah and When is it Necessary?

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Question: One common case of *shlichus* is when one makes his Rov his *shliach* to sell his *chometz* to a non-Jew before Pesach. At such a time, the Rov asks the seller to sign a *shtar harsha'ah*. How does a *harsha'ah* work and why is it necessary?

Answer: The truth is, a *harsha'ah* is not really needed to make the Rov your *shliach* to sell your *chometz*. Technically, you could just tell him that you are appointing him as your *shliach* for this task. The *harsha'ah* that we use for *mechiras chometz* is formulated in a way that it takes care of some other problems with the sale, such as the fact that the seller's name is not on the sale document and that he isn't really receiving any money from the non-Jewish buyer. Rav Henkin *zt"l* explains how the *shtar harsha'ah* we use solves those problems.

In general, the concept of *harsha'ah*, which is to empower the agent as if he is the principal, is only necessary in cases when mere agency would not suffice, such as when you want to authorize someone to make a claim in *bais din* for you. The defendant usually has the right to say "*lav baal devarim didi at*," you are not my litigant. He can claim that he doesn't want to deal with anyone besides the actual claimant, and refuse to respond to any messenger. The Rishonim give a few reasons why he is allowed to make such a claim and refuse to deal with a *shliach*. One reason is because he can say that it is possible that the claimant died or cancelled the claim, and he doesn't believe the claim is still valid unless the claimant is personally present in *bais din*. To counter this claim of the defendant, the claimant can make a *harsha'ah* with a *kinyan* that gives over all of his powers to the *shliach*. In essence, it makes the *shliach* into the "*baal devarim*" so that the defendant cannot refuse to deal with him.