

## Who Pays The Shipping Costs to Return a Mekach Ta'os?

### **Rav Yosef Greenwald, Rav of Khal Dexter Park and Dayan in the Bais HaVaad**

**Case:** I bought a washing machine in Brooklyn and had it shipped up to the mountains for my wife to use in the bungalow colony. Unfortunately, the machine was defective and did not work properly. I called the store in Brooklyn to have them come pick up their machine, but they claimed that bringing the washer back from upstate is not their responsibility and they would only reimburse me if I brought the machine back to them.

**Question:** Who is responsible to arrange and pay for the return of the machine?

**Answer:** The answer to this can be split into 3 categories.

1. **Seller Knows Where It Is Being Shipped:** If he knew that the buyer was taking the washing machine upstate, he would be responsible to pay the costs to have the machine returned to him.
2. **Seller Doesn't Know Where It Is Being Shipped:** If the seller did not know about those plans, he would not have to pay any return shipping fees and would not have to refund the money until the buyer returns the washer to him.
3. **Seller Sells It With Malicious Intent:** The halacha would be different if the seller was aware of the deficiency and maliciously sold the item anyway. In such a case, the seller has the status of an indirect *mazik* – falling under the category of *garmi* – and he would be obligated to pay for the damage he caused by paying the return shipping fees, whether he knew about the buyer's plans or not.

**Question:** What if the washing machine was stolen or damaged by vandals before it could be returned? Who is responsible for that loss?

**Answer:** The Poskim discuss whether the buyer has the status of a *shomer* on the object as long as it is still on his property. In any case, if it was stolen or vandalized, he cannot be held responsible for that damage. If it was damaged due to his negligence, he would be considered a *poshea* and he would be responsible for the damage.

If he would decide to leave the merchandise outside his house, not even bothering to bring it inside and it would be damaged by the elements, he would be considered a *mazik* as the damage was caused by his act of neglect. Of course, he is not permitted to damage the merchandise in any way regardless of whether he is a *shomer*, and he would need to pay for the loss he caused.

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