



FROM THE VIRTUAL DESK OF THE OU VEBBE REBBE

RAV DANIEL MANN



Trapping and Releasing on Shabbat

Question: A couple of weeks ago, we saw a mouse in the house and put out a cage trap. A mouse was trapped last Shabbat. Because we felt bad for the mouse, we took it (on Shabbat) to an isolated area and let it out. Did we violate anything by trapping the mouse on Shabbat, or by letting it out (like some *melachot* that come in pairs, like tying and untying)? Was the cage *muktzeh* and, if yes, did *tza'ar ba'alei chayim* justify taking it out?

Answer: At first glance, whether you violated *tzad* (trapping) with your cage is the subject of a *machloket* between Beit Shammai and Beit Hillel (Shabbat 17b). The former says that one may not put out traps before Shabbat unless he can assume the prey will be caught before Shabbat. Beit Hillel, like whom we *pasken*, says a broad rule that one does not violate *melachot* on Shabbat when the apparatus he set up before Shabbat “works” on Shabbat. (It is not clear that Beit Shammai refers to placing a trap several days before Shabbat, as the chances the animal will be caught

on Shabbat are small – see Meiri ad loc.). In certain cases, Beit Hillel prohibits Rabbinically setting up such a system, due to concern the situation will cause one to personally mistakenly violate Shabbat. For example, it is forbidden to keep partially cooked food on the flame on Shabbat unless one does something to mitigate the chance of mistake (Shabbat 36b). *Chazal* did not find grounds for such a *gezeira* here.

Chazal did not view letting an animal free as connected to the possibility of re-trapping

Indeed, some *melachot* come in pairs, but the list (Shabbat 73a) does not include a counterpart to *tzad*. Usually, undoing a *melacha* is forbidden when it is preparatory to redoing the main *melacha*. I sewed poorly, so I rip the stitches to redo them. The wall is weak, so I take it down to redo. There may also be cases where the “undoing” has special significance, like extinguishing a fire in order to use the ashes (see Rambam, Shabbat 12:2). The classic case of *tzad* is normally to trap something in order to kill it and use the carcass, and *Chazal* did not view letting an animal free as connected to the possibility of re-trapping

or something significant and/or related to construction of the *Mishkan*.

Animals are *muktzeh* on Shabbat (Beitza 2a). Although you were happy the mouse found was contained in the cage (see Mishna Berura 309:27), it did not become a permanent *bassis l'davar ha'asur* because the mouse was not there when Shabbat started (Shulchan Aruch, Orach Chayim 310:7); there may be other reasons for this determination (see Shulchan Aruch, OC 309:4 and Mishna Berura 309:21).

The cage not being a *bassis* is of limited value because when you carried it, the mouse was still there. In such cases, one may move the cage only under specific circumstances (see details in Shemirat Shabbat K'hilchata 20:47). We have to divide your case into two possibilities. If you would have let the mouse out even if you would not be allowed to take the cage outside, then moving it was for your sake, to remove the mouse from your house. If so, you could have moved indirectly, e.g., carrying by means of a permitted utensil (Shulchan Aruch, OC 311:8).

If you would not have let out the mouse in the house, moving indirectly is not enough, because you are moving it for the sake of the *muktzeh* item (ibid.) – getting it somewhere you could release it. Let us assume (I lack expertise to determine if keeping a mouse in a small cage is *tza'ar ba'alei chayim* (=tbc)) that there was *tbc*. Does it help? The *gemara* (Shabbat 128b) allows placing cushions under an animal to alleviate its pain, as *tbc* overcomes the Rabbinic prohibition of *mevatel kli meiheichano*. There is a *machloket* if *tbc* also waives *muktzeh* (Mishna Berura 305:70), and it is hard to give a broad ruling (see Shemirat Shabbat K'hilchata 27:54). Perhaps it might have helped to put something not *muktzeh* of more value on the cage (see Mishna Berura 310:37; Shulchan Aruch, OC 309:3) before moving it. There are serious complicating factors (beyond our scope - see Orchot Shabbat 19:288; Living the Halachic Process II, C-21), but in the face of *tbc*, it might be justified. ■

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