



ERETZ HEMDAH ASK THE RABBI SERVICE

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לעולי נשמה
יואל אפרים בן אברהם עוזיאל זלצמן ז"ל

Late Payment?

Question: My wife hired a babysitter (=bbst) for a few afternoon hours and was about to pay her cash, when *bbst* said she preferred payment via Paybox. My wife does not have it on her phone, so she messaged me with the details. I was busy at work and did the transfer at night. Later, I was concerned that perhaps I/we violated *bal talin* (not paying late). Did it help that: I had prepared the money in time, and *bbst* decided not to take it; my wife hired her, and she did her job by providing me as an address *bbst* accepted, and I who paid late, did not hire her?

Answer: It is an honor to field a question from one who is so concerned with the minutiae of this important *mitzva* that few people think about. Ostensibly, since *bbst* worked

by the hour and finished before the end of halachic day, you/your wife had to pay before night (*Bava Metzia* 110b). We will analyze possible indications that you did not violate anything, some of which depend on nuanced details.

Like for most monetary rights *mitzvot* (*ribbit* is an exception), if the worker agrees to receive the money later than standard, there is no violation of *bal talin* or related *mitzvot*. (The employer may sometimes lose the positive *mitzva* of “on its day you shall pay his wages” (*Devarim* 24:15; see *Pitchei Teshuva*, *Sechirut* 9:(36)), but this is quite innocuous). The rights’ waiver need not be explicit or enthusiastic. For example, the *gemara* (*Bava Metzia* 111a) says that one whose livelihood is from periodic market days can wait to pay when that day comes because we assume the worker understood all along that this is when he would be paid (*Rashi ad loc.*). Even when all parameters indicate on-time payment, if the worker did not ask yet for the money, there is no *bal talin* (*Bava Metzia* 112a); the lack of request is sufficient indication that he does not care to get paid yet (*Ahavat Chesed* 1:9:11).

From this perspective, it is likely that *bbst*’s mindset was as follows: “The mother is willing to pay me now, and I asked for Paybox, which she can’t do and she has to ask her husband. Who knows if he is available now to do it? I really do not care if he does it right away or in several hours.” If so, what happened is fine. On the other hand, Halacha follows psychological assumptions *Chazal* make about



cases like ours, and we are hesitant to make small distinctions between their case and ours or say that mindsets have changed – barring strong indications. In cases where we do not have an assumption of *Chazal*, like yours, it is difficult to rely on our own psychological assumptions.

Considering that the *gemara* (Bava Metzia 111a) says that *bal talin* is only when the person who must pay also hired the worker, how to view your home dynamics is significant. It sounds that your wife had both roles – until she lost the payment role. It is a good question to what extent to treat a couple as one unit or as partners (see *Ahavat Chesed* I:10:(10); *Shevet Halevi* VII:322).

According to the possibility that you entered the picture as a “player” and not just someone doing his wife’s technical bidding or a part of the “couple unit,” the following *halacha* is relevant. If the employer arranges for a storeowner to give credit to the worker on his behalf, the employer’s obligation is suspended (Bava Metzia 111a), at least if the worker agrees (see *Beit Yosef*, CM 339, *Ahavat Chesed* ibid. 5). However, if your wife assured

bbst that you would pay immediately and you could not, you might not be equivalent to the storeowner.

In short, it is likely that your family’s forthcoming approach was enough that *bbst* was fine with the slight delay, based on psychological grounds or halachic precedent. The halachically safest thing was for your wife to stipulate that *bbst* waive the need to pay before night if she wanted Paybox. Although *bbst* would almost certainly agree, if needed, your wife had leverage, as an employer who has cash to pay cannot be told she **must** pay in another way. However, if your wife readily agreed that *bbst* would be paid with Paybox without receiving a grace period, it **might** be a problem. ■

Having a dispute?



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