



Tikkun Olam in Lost and Found

The fifth *perek* of *Gittin* continues listing other rabbinic enactments that were *mipnei tikun olam*. One of these relates to someone who finds and returns a lost object. The owner then claims that there was more that was lost. The *Mishnah* (5:3) teaches he need not swear that that was all he found. The *Bartenura* explains that were that not the case, it would serve as a disincentive to return lost objects. We shall try to understand this *Mishnah*.

The *Ramban* (51a) explains that the fact that the exemption is *mipnei tikun olam*, means that without that *takana*, the person would have been obligated to make a *shevua*. The case would then have to be where the owner made a definite claim that the person found more than he was returning. Since there is a partial admission – *mo'de bemiktzat* – he is obligated to make a *shevua*. That would not be the case of the owner only suspected or assumed that the person found more.

In most cases however, the owner would not have a definite claim. That being so, in general, someone who found a lost object would not be required to make a *shevua*. Nevertheless, the *Ramban* explains that most people are not versed with the laws of *shevuot* or know the difference between whether the claim was definite or not. Consequently, if they were to hear that a *shevua* was demanded from one that returned a lost object, they would hesitate, if not refrain from returning lost objects. Furthermore, even if he did know the difference, there would be a risk that the owner would nevertheless present a definite claim.

Interestingly, the *Tosfot R' Akiva Eiger*, citing the *Rashba*, refines our understanding of the “definite claim” in this case. If the owner’s claim only comes to light based on the admission of the finder, then the finder is believed.

This is based on a *migo*. In other words, since the finder could have claimed that it was his, because he presents the information that he found it, we believe him that that was all he found. If the owner claims that he saw the person collecting all that he lost and not all was returned, that would be like any other monetary dispute and not the topic of our *Mishnah*. *R' Akiva Eiger* explains that the case is where the person lost two purses tied together. The owner claims that he saw the other person find his lost item on a rooftop. Since the purses would not have come untied on their own, it is considered a definite claim that both purses were found. It is this case specifically that the *Mishnah* exempts the *shevua*, *mipnei tikun olam*.

The *Tifferet Yisrael* however cites the *Sema* who explains that if there was a definite claim, then a *shevua* would indeed be required. Instead he argues, that without a definite claim, this would not be a case of *migo*. He explains that whenever we have a partial admission (*mo'de be'mitzat*) we can no longer use a *migo*. Or as the *Chatam Sofer* (51b) puts it, one cannot use a *migo* to exempt themselves from a *shevua*. Why?

The *Maharam Shif* also understands that the owner did not see the person find his object, and that the definite claim stems from the fact that they were tied together. Nevertheless, he explains that a *migo* (or *ha'peah sha'asar*) only exempts one from a *shevua* when there is no further counter definite claim for more that stems from the admission. It is true that he could have kept quiet and kept the items and no one would have known. However, since there is now a definite claim demanding more than the part the finder is willing to return, were it not for the *takana*, a *shevua* would have been required.

Yisrael Bankier

Revision Questions

גיטין ה' א' – ו' ה'

- What legal payments are collected from the best quality land? Medium quality? Lowest quality? (ה' א')
- What are *nechasim meshubadim*? Is there any restriction as to when debts can be collected from them? (ה' ב')
- From who are debts always collected from the lowest quality property? (ה' ב')
- What is never collected from *nechasim meshubadim*? (ה' ג')
- If someone returned a lost wallet, does he need to swear that he found it empty of the money it contained? (ה' ג')
- When is an *apotropus* obligated to swear that he never took from the property of *yetomim*? (ה' ד')
- When is one exempt from compensation if he caused another's food to be *tameh*? (ה' ד')
- Can a *chareshet* be divorced through a *get*? (ה' ה')
- What was instituted as *takanat shavim*? (ה' ה')
- Explain the law of *sikrikun* and when did it apply? (ה' ו')
- What other law that applies to acquisitions is similar to that of *sikrikun*? (ה' ו')
- How did the law of *sikrikun* change and what was the final amendment to that change? (ה' ו')
- How does a *cheresh* engage in a transaction? What does *R' Yehuda* add as another acceptable means of communication? (ה' ז')
- What are *pa'utot*? (ה' ז')
- Which three cases are debated as to whether they are forbidden due to *darkei shalom* or because it is *gezel gamur*? (ה' ח')
- Can one lend cooking implements during the *shmittah* year to one that is suspect of transgressing the prohibitions of *shmittah*? (ה' ט')
- Until which point can a *eshet chaver* assist an *eshet am ha'aretz* in making bread? (ה' ט')
- Describe the case in which once the husband hands the *get* to the *shaliach* he cannot cancel the *get*. (ה' י')
- If a woman elected a *shaliach* to accept her *get* and he did so, but then disposed of the *get*, how many witnesses would she require to confirm the divorce? (ה' י')
- Explain the debate regarding one who accepts the *get* of a *na'arah me'orasah*. (ה' י')
- Can a *ketanah* elect a *shaliach kabalah*? (ה' י')
- Is a *get* valid if the husband's *shaliach* gave the *get* to the wife in a different location to the one he was told? (ה' י')
- Is a *get* valid if the wife's *shaliach* received the *get* in a different location to the one he was told? (ה' י')
- Considering a *bat Yisrael* who is married to a *kohen*, if she wished to use a *shaliach* to obtain her *get*, using what *shaliach* would she be able to continue to eat *trumah* until the *get* reaches her hand? (ה' י')
- If a man just said to two people "write a *get* for my wife" in which cases would they both write and hand the *get* to his wife? (ה' י')

Shiurim

ONLINE SHIURIM

Yisrael Bankier
mishnahyomit.com/shiurim

Rabbi Reuven Spolter
mishnah.co

Rabbi Chaim Brown
www.shemayisrael.com/mishna/

Rabbi E. Kornfeld
Rabbi C. Brown
<http://www.dafyomi.co.il/calendars/myomi/myomi-thisweek.htm>

APPS

Mishnah Yomit
mishnahyomit.com

All Mishnah
Orthodox Union

Mishna Yomi
Our Somayach, South Africa

Kehati

SHIUR ON KOL HALOSHON

Rabbi Moshe Meir Weiss
In US dial: 718 906 6400
Then select: 1 – 2 – 4

Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
30 June כ"ד סיון	1 July כ"ה סיון	2 July כ"ו סיון	3 July כ"ז סיון	4 July כ"ח סיון	5 July כ"ט סיון	6 July ל' סיון
Gittin 6:6-7	Gittin 7:1-2	Gittin 7:3-4	Gittin 7:5-6	Gittin 7:7-8	Gittin 7:9-8:1	Gittin 8:2-3

