



סוגיא דכ"ה
שכירות פועלים





WORK RESPONSIBILITIES AND DISPUTE RESOLUTION

Hiring and Firing, Cancelling and Quitting, When is it allowed and who is liable for ensuing losses?

Work Responsibilities and Dispute Resolutions

CASE STUDY #1

By Rabbi Michael Frank

Rav Ohr Hatorah Silver Spring, MD

Question:

Can an employer hold an employee responsible for damages incurred due to a missed deadline? Is he still required to pay the employee? Can he fire him?

Answer:

In this type of scenario, there will generally be two forms of losses: one, the loss of potential income; and two, the loss of money invested in the project. From a Halachic standpoint an employee cannot be held responsible for the loss of potential income, because this is considered merely a "grama". However, at times he may be held responsible for the loss of money invested in the project.

For example, if a customer cancels his account with a company due to an employee's negligence, the employee cannot be held responsible for that, because the loss of the customer isn't a direct result of the employee's actions, but rather an indirect effect.

However, take the example of an employee who was tasked with preparing a journal for his company's or organizations fund-raising event and did not submit it to print in time. As a result, the journal was not printed until after the event. In this case, the employee can be held

responsible for the loss of invested money (for the printing and shipping of the journal), as this damage was a direct result of the employee's negligence – i.e. submitting the journal at a point where it won't serve any purpose. Being that many different factors affect the halachah, a Bais Din would need to determine if there was true responsibility in this case, and also determine the extent and value of the damage.

Furthermore, if the employee had merely failed to print the journal (and no money would have been spent for the actual printing and shipping), then no funds would have actually been lost. Although all his work in preparing the journal was useless at the end, he cannot be held responsible for any perceived damage.

With regard to paying this employee, the halacha would depend on what sort of pay structure agreement is in place. If the employee was hired specifically to create this journal, then the employer doesn't have to pay him for his work. If he has a regular salary and position with this company, and performs many tasks around the company, a Bais Din would need to be consulted.

In addition, this scenario is considered legitimate cause for dismissing the employee, though the employer may be required to first warn the employee of the consequences of poor performance.

Disclaimer: This Q&A was written only to raise awareness to the possible angles of this halachah. In all cases, a Rav or Bais Din must be consulted.

For more information please call: 732-367-1060 Ext. 4215
yarcheikallah@bmg.edu

48

48 hours. *Lifetime impact*



WORK RESPONSIBILITIES AND DISPUTE RESOLUTION

*Hiring and Firing, Cancelling and Quitting,
When is it allowed and who is liable for ensuing losses?*

Work Responsibilities and Dispute Resolution

REAL CASE SCENARIO #2

By Rabbi Yosef Kushner

Dayan, Bais Havaad Lakewood, NJ

Question:

Reuven, a prospective employee, interviews at an accounting firm. The employer calls him back the next day and offers him the job. Subsequently, the employer meets a relative who mentions that he is looking for an accounting position. Can the employer then withdraw the original offer and give the position to the relative?

Answer:

If this exchange takes place before Reuven actually starts his job, then although the employer is considered to have acted improperly by withdrawing his offer, he would not be held liable to provide any financial compensation. However, Reuven may have tarumos - the legal Halachic right to have a complaint - against the employer.

However, if Reuven turned down other employment opportunities because he had accepted this offer, and now those opportunities are no longer available, the employer is responsible to compensate for Reuven's loss that resulted from the withdrawn offer. This is true even if the offer was rescinded before Reuven actually started working for his new employer.

If Reuven already began his job, the employer does not have the right to fire him in order to hire his own relative. If he does fire him, he is responsible to pay k'poel batel until Reuven finds another job.

"K'poel batel" is a reduced salary rate which is paid to the employee, reflecting the fact that the employee is not actually performing any work. In our case, the employer would have to pay Reuven the reduced amount that is considered an appropriate rate for paid time off.

Once Reuven finds an equivalent job for the same pay, the original employer will no longer be liable to provide any financial compensation.

Disclaimer: This Q&A was written only to raise awareness to the possible angles of this halachah. In all cases, a Rav or Bais Din must be consulted.

For more information please call: 732-367-1060 Ext. 4215
yarcheikallah@bmg.edu

48

48 hours. *Lifetime impact*