

## A tree planter

## שתלא –

### OVERVIEW

רבא ruled that certain people are considered forewarned and can be fired if they made a mistake, without any (additional) warning, since their mistake is a mistake which cannot be rectified. Among these people is a שתלא, one who plants trees. תוספות explains why his mistake cannot be rectified.

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תוספות asks:

**ואם תאמר מאי פסידא איכא אי יפסיד ישלם -**

**And if you will say; what irretrievable loss is there by the שתלא; if he caused damage (by not planting [properly]) let him pay,** so the employer will not sustain any loss?!

תוספות answers:

**ויש לומר דאינו מפסיד אלא שפושע<sup>1</sup> שאין הנטיעות גדילות כמו שהיו ראויות ליגדל:**

**And one can say that the שתלא is not damaging or destroying anything; rather he is negligent in his work so that the saplings do not grow as they were supposed to grow**

### SUMMARY

The שתלא may not cause damage but he minimizes the profit (for which he is not liable), therefore he can be fired.

### THINKING IT OVER

תוספות asks about a שתלא; why did תוספות not ask about a טבח or a מתא, why should they not pay if they damaged, just as he asks regarding a שתלא?<sup>2</sup>

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<sup>1</sup> The שתלא was given saplings to plant. He planted them somewhat recklessly and the saplings did not mature properly, however they are now still worth more than the saplings, therefore he did not cause an actual loss to the owner, he merely deprived him from additional profit. One cannot claim damages from losing potential profit. Therefore this is considered a פסידא דלא הדרא and (even though we cannot hold him liable for the damages, nevertheless) he can be fired without warning.

<sup>2</sup> See מהרש"א.