

Since they saw him, he is a robber

כיון דראוהו גזלן הוא -

Overview

There is a difference between a גנב (a thief) who steals stealthily, and a גזלן (a robber), who steals blatantly. The גנב pays כפל and ד' וה' , while the גזלן does not. The גמרא asks since ר' אלעזר stated that they saw the thief slaughtering, so he is a גזלן (not a גנב), why therefore is he obligated in ד' וה' .

כלומר¹ שעושה במקום גלוי² ולא דמי לגונב בבית או בחצר:

The גמרא means to say, that he should be considered a גזלן, since he was acting in a revealed (open) place (a forest), and he is not like one who steal in a house or a courtyard (which is a private area).

Summary

ראוהו means he could be easily seen.

Thinking it over

Do רש"י and תוספות offer the same explanation, or is there a difference; explain!

¹ anticipated the following question; why is he considered a גזלן, just because he was seen; every גנב who pays כפל (or ד' וה') was seen by witnesses otherwise there would be no obligation to pay כפל (see also רש"י ד"ה וכיון).

² According to תוספות the question is not that he is a גזלן, since they saw him, rather the term ראוהו, needs to be understood that he was doing the slaughtering in a place where anyone can see him; as opposed to a גנב who steals surreptitiously.