

One who hires (לעיל¹) the shochar at the moment when they retract; they are at a disadvantage craftsmen and they retracted; they are at a disadvantage

Overview

The משנה stated regarding one who hired craftsmen; that if they retracted, they are at a disadvantage, and if the employer retracted, he is at a disadvantage. תוספות discusses the details how each party may be at a disadvantage.

שם קבלו כמה לקצור בשני סלעים וקצרו חציה והוקרו² ושוה מה שעתיד לעשות סלע וחצי -
That if the workers accepted contractually to harvest a field of standing grain for two סלעים, and they cut half of the field and the price [of workers] increased, so that the remaining work of half a field cost a סלע and a half (instead of one סלע) -
וחזרו פועלים לא יתן להם רק חצי סלע לפי שיצטרך לתת סלע וחצי לקצור חציה השני -
And the workers retracted (they did not want to harvest the remaining half a field), the employer does not have to give them but half a סלע, since he will need to pay a סלע and a half to harvest the remaining second half -
והיינו כרבי דוסא³ -

And this is like the ruling of ר' דוסא.

משנה continues citing the תוספות:

ואם בעל הבית חוזר בו ידו על התחתונה -
And if the employer retracted (he does not want these people to finish the job, which he hired them for two סלעים), he is at a disadvantage. This concludes the משנה -
פירש בקונטרס⁴ אם הוזלו פועלין ואין שוה החצי אלא שקל וחזר בו בעל הבית -
רש"י explains this latter case; if the price of workers decreased, and the remaining half of the work costs only a שקל (half a סלע) and the employer retracted -
יתן להם סלע וחצי לפי שבחצי הסלע ימצא שיגמרו קצירו⁵ -
He pays the first workers a סלע and a half, since he can find workers who will complete his harvest for half a סלע.

פרש"י comments on this תוספות:

¹ This תוספות is referencing the משנה on עה,ב (on the very bottom).

² The והוקרו ושוה"ה amends this to read והוקרו פועלים ושוה (instead of ושוה והוקרו)

³ See later on עו,ב.

⁴ רש"י עה,ב ד"ה ידם (חזרו הפועלים) is also according to משנה (where the explanation of the first part of the משנה) See 'Thinking it over'.

⁵ Additionally, if he pays them only a סלע, they will at best only be able to receive a half סלע if they find work for the remainder of the day, so they will lose half a סלע through no fault of their own. See ריטב"א.

ולא רצה לפרש דידו על התחתונה כשהוקרו פועלין⁶ -

And did not want to explain that על התחתונה **ידו** in a case where the workers became more expensive and the על התחתונה **יד** would mean -

ויתן להם סלע וחצי על חצי שעשו כמו ששאו עכשיו⁷ -

That the employer should give them a סלע וחצי for the half which they did, as it is worth now (after the workers became more expensive). The reason רש"י does not say this is -

שאין זה סביר כי למה יתן להם בעל הבית יותר ממה שהתנה עמהם -

For this is not logical; for why should the בעה"ב pay them more than which he stipulated (which is two סלעים for the entire field; so one סלע for half the field) -

כיון שאין מפסידין בחזרת בעל הבית ואדרבה יותר מרויחים -

Since the workers are not really losing (that much) **with the retraction of the בעה"ב, and on the contrary they are probably gaining** by it -

שעתה ימצאו שיתנו להם סלע וחצי לקצור חצי קמה והוא לא היה נותן להם כי אם סלע -

Since now (with the increase in wages) **they may be able to find someone who will pay them סלע וחצי to harvest half a field of standing grain, but** their previous employer **would have only given them a סלע** for the same job. Therefore since the workers may be gaining by this firing, there is no need for the owner to pay them the current wage, even though על התחתונה **ידו**.

Tosfos asks:

ואם תאמר דאמר לקמן (דף עז, א) אמר מר⁸ או יגמרו מלאכתם ויטלו ב' סלעים -

And if you will say; when the גמרא states later; 'the master said, 'or they can finish their work and they will receive two סלעים'; the גמרא asks -

פשיטא לא צריכא דזל עבדתא⁹ ואימר בעל הבית ופייסוהו פועלים¹⁰ -

'It is obvious' that if they finish the work they will receive two סלעים; the גמרא answers; **it is only necessary** to teach this ruling in a case where **the work became cheaper and the owner retracted, and the workers appeased him** to let them finish the work. This concludes the citation from the גמרא. Tosfos asks -

והשתא למה חוזר בעל הבית בזה בשביל שהוזל המלאכה -

⁶ Now the whole job is worth three סלעים (and half the job is a סלע and a half). The advantage of this פשט would be that the על התחתונה **ידו** in both cases, would be in the same manner where הוקרו פועלים. For an additional advantage see later footnote # 11.

⁷ See footnote # 6.

⁸ This is referencing the view of ר' דוסא (on עז, ב) in a case where they were offered two סלעים (eight דינרים) for a day's work, and they only did half and retracted, but now the remaining work is worth six דינרים; he pays them only two סלעים (half a סלע), or they can finish working and will receive the two סלעים.

⁹ The remaining work can be found for two דינרים (half a סלע).

¹⁰ We could have thought that he only agreed to hire them if they would agree to a lower wage, therefore ר' דוסא teaches us that they only agreed for the previous wage but they will do a quality job.

But now¹¹ why should the בעה"ב retract, because the work became cheaper -

מה מרויח בחזרה הלא צריך ליתן להם סלע וחצי על מה שעשו -

What is he gaining by his retraction, would he not be obligated to pay them a סלע and a half for what they did -

ופועלים נמי למה פייסו כיון שאין מפסידים כלום¹² -

And also regarding the workers, why are they appeasing the בעה"ב to rehire them, since they are not losing anything?!

answers: תוספות

ויש לומר דבעל הבית חוזר מחמת שנאה שהיתה קטטה ביניהם -

And one can say that the בעה"ב retracted because of hatred on account of a dispute between them, but not for financial gain (for there is none).

ופועלים פייסו שלא יצטרכו לחפש ולמצוא מקום להשתכר:

And the workers appeased him, so they will not need to go search and find a new place to be hired; it is easier for them to continue work on this job.

Summary

The disadvantage of the one who retracts is that we take into account what is the cost of finishing the job, if it costs more and the workers retract they lose, if it costs less and the owner retracts he loses.

Thinking it over

explains¹³ the ruling of התחטונה על יד פועלים in a case where (as הוקרו פועלים explains in the משנה [in the first example]¹⁴). Why did not תוספות choose to explain התחטונה על יד פועלים in a case of הוזלו פועלים (that they only receive a סלע and not סלע וחצי) as רש"י explains in the second example there?¹⁵

¹¹ Now that we say (see text by footnote # 7) that if the בעה"ב retracted he has to pay them סלע וחצי in this case. [If we would learn like the לפרש ולא רצה לפרש (see footnote # 5) and would disagree with פרש"י and we would maintain that if הוזלו פועלים, and the בעה"ב retracted he would not pay them סלע וחצי (as רש"י maintains), but (presumably) only a סלע, we can understand why the בעה"ב is חוזר (for he is gaining two דינרים) and why the פועלים are מפייס the בעה"ב (because they stand to lose two דינרים); however according to פרש"י the difficulty is apparent.]

¹² They are receiving the סלע ומחצה and they can hire themselves out for the rest of the day for half a סלע. So they will have their full two סלעים; why beg the master to rehire them?!

¹³ See footnote # 4.

¹⁴ בד"ה ידם.

¹⁵ See מהרש"א ומהר"ם שי"ף.