

## **What is the ruling regarding שמש שאינו קבוע בדמשהא מאי – a non-permanent waiter with an oil lamp**

### **OVERVIEW**

The גמרא offered various answers to resolve the contradiction between one ברייתא that permitted a שמש to check the dishes לאור הנר and another ברייתא which prohibited it. The last answer (according to our גירסא) was that the שמש קבוע may check if it is a נפטא lamp, and is prohibited if it is an oil lamp. תוספות explains the current query in light of the last answer.

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לשינא בתרא<sup>1</sup> מבעי ליה<sup>2</sup> –

**This query is according to the latter view**, where we distinguish by a שמש קבוע between oil (where it is forbidden to check) and נפטא (where it is permitted).

תוספות offers an alternate interpretation:

ורבינו תם<sup>3</sup> גריס הא והא בשמש שאינו קבוע –

**And the text of the ר"ת** reads in the last resolution; ‘both ברייתות are discussing a שמש שאינו קבוע; but one is בדמשהא where it is permitted and the other is בדמשהא where it is forbidden. After this answer –

איבעיא להו שמש קבוע בדמשהא מאי –

**They queried; ‘what is the ruling regarding a שמש קבוע by an oil lamp’.**

once שמש קבוע בדמשהא is established that a שמש שאינו קבוע is אסור by משחא –

דשמש שאינו קבוע בודק יפה שלא יעבירוהו<sup>4</sup> –

**For a שמש שאינו קבוע** (who is not secure with his position) **will check well** for he is concerned **that he should not be relieved** from his position if he does not serve properly, therefore it is forbidden for him to check לאור הנר, for he may be מטה –

**אבל קבוע לא מרתת שיעבירוהו בשביל כך כיון שהוקבע כבר:**

**However a שמש קבוע is not frightened that he will be relieved because the service was not proper, since he is already established** as a שמש קבוע, therefore

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<sup>1</sup> According to the previous answer (כאן בשמש קבוע כאן בשמש שאינו קבוע) there can be no query for in all cases a שמש שאינו קבוע is (either) permitted [according to רש"י] (or forbidden according to the ר"ת).

<sup>2</sup> The assumption (according to this view) is that a שמש שאינו קבוע may not be as meticulous as a שמש קבוע and therefore even during the week he may not be מטה the נר to ascertain if everything is correct; or perhaps he is careful to check, when working by an oil lamp (see רש"י ד"ה שמש שאינו). See footnote # 4.

<sup>3</sup> In the תורה this is brought in the name of רבינו חננאל.

<sup>4</sup> The assumption of the ר"ת is that a שמש שאינו קבוע is more meticulous than a שמש קבוע; the exact opposite of פירש"י; see footnote # 2. See ‘Thinking it over’ # 1.

*perhaps* he is permitted to check even לאור הנר, for he certainly will not be מטה.

### **SUMMARY**

If we assume that a שמש קבוע is more careful, then the query (בדמשחא מאי) is by a שמש שאינו קבוע, if a שמש קבוע is less careful then the query is by a שמש קבוע.

### **THINKING IT OVER**

Can we say that רש"י and the ר"ת have no basic disagreement, rather they have different interpretations as to the meaning of a שמש שאינו קבוע. According to רש"י a שמש שאינו קבוע is hired on a temporary basis, and the שמש does not expect (or perhaps even want) to continue his employment here; therefore he is not so careful. However according to the ר"ת a שמש קבוע may mean an apprentice שמש, whose tenure is under constant review to verify his competence; he is extremely meticulous and therefore prohibited from checking לאור הנר.

2. According to the ר"ת (that a שמש ש"ק is אסור to check בדמשחא), how will he explain the story<sup>5</sup> of ר' ירמיה בר אבא<sup>6</sup>?

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<sup>5</sup> See רש"י ד"ה קם.

<sup>6</sup> See מתק שפתים and תוה"ר.