

He should not rent out

לא ישכיר -

Overview

The **ברייתא** ruled that one may not rent out his utensils to a **נכרי** on **ע"ש**, however he may rent them out on Wednesday or Thursday. **תוספות** discusses according to whom is this law, and why it is prohibited.

אין לפרש משום שביתת כלים¹ וכבית שמאי דאם כן אפילו ברביעי ובחמישי נמי² -

We cannot explain the reason for this prohibition is because of **שביתת כלים** and it is according to **ב"ש** (who maintain **כלים שביתת כלים**), for if indeed this is the reason, it should also be forbidden to rent it out even on Wednesday and Thursday -

אלא כבית הלל היא דלית להו שביתת כלים³ -

Rather this **ברייתא** is according to **ב"ה** who do not agree with **כלים שביתת כלים** -

או בחלוק וטלית וכיוצא בהן איירי דלא שייך שביתת כלים⁴ -

Or we are discussing renting out a cloak or a טלית and anything similar, where **שביתת כלים** is not applicable, so the **ברייתא** could be according to **ב"ש** as well -

ואסור לפי שנראה כנוטל שכר שבת⁵ אף על פי שמשכירו יחד חדש או שבוע⁶ -

And it is forbidden to rent to a **נכרי** on **ע"ש**, because it appears as if he is taking a rental payment for **שבת** which is forbidden, even if he is renting it out for a month or a week at a time -

דאם משכירו ליום אפילו ברביעי ובחמישי אסור כדמשמע בסוף הזהב (בבא מציעא דף נח,א) -

For if he is renting it out by the day, it is prohibited to rent it to the **נכרי** even on **ד'**, as it seems in the end of **הזהב** -

גבי שוכר פועלים לשמור פרה או תינוק⁷ -

¹ שביתת כלים refers to the prohibition (according to **ב"ש**) of the utensils of a **ישראל** doing work on **שבת**. If the **נכרי** rents from a **ישראל** and they do work on **שבת** (he cooks with the pots) the **ישראל** is transgressing **שביתת כלים**.

² It makes no difference when the **נכרי** rented it, since he will work with it on **שבת**, it is **אסור** because of **כלים שביתת כלים**.

³ מותר בד' ובה' This explains why it is 'מותר בד' ובה'.

⁴ The **חלוק וטלית** cannot perform any work that is **אסור** on **שבת**. (See **TIE footnote # 5**, **יהב ד"ה ולב"ש**.)

⁵ Getting paid for **שבת** (either by doing something [permissible] on **שבת**, or for renting out something on **שבת**) is **אסור** because it is similar to buying and selling, which is prohibited because it may cause one to write, which is **אסור מה"ת**. See **רש"י כתובות סד, א ד"ה כשכר**.

⁶ The **ישראל** is not charging him a daily rental fee, but rather a monthly or weekly fee so the **שכר שבת** is 'swallowed' (absorbed) in the total rental fee, nevertheless since he is renting it out so close to **שבת** it appears as if he is taking **שכר שבת**. However if he rents it out before **ע"ש** for a weekly or monthly rate, he may include the **שבת** as well, since the **שכר שבת** is 'swallowed' in the total rental fee, it does not appear as **שכר שבת**.

⁷ The **ברייתא** there is discussing a case where **הקדש** hires workers to watch the **אדומה** פרה that she should not become through work or a מום, or they were hired to watch the children (who would draw the חיים) not to become טמא, so if he is hired on a daily basis (**שכיר יום**) they do not pay him for **שבת** and therefore he is not liable for anything which happened on **שבת**, however if they hired him on a weekly or monthly basis, we pay him **שבת** and

Regarding one who hires workers to watch a cow or a baby –

תוספות concludes:

ודוקא לשוכרו דמיחזי כנוטל שכר שבת אבל שאלה⁸ שריא:

And it is only forbidden to rent it out to the נכרי, since it appears that he is taking שכר שבת, but it is permitted to lend it to the נכרי, for there is no שכר שבת.

Summary

One may not rent something out to a נכרי on ע"ש even if he is renting it on a weekly or monthly basis, for (since he is renting it immediately prior to שבת) it appears as if he is taking שכר שבת (which is אסור).

Thinking it over

תוספות concludes that one may lend to a נכרי even on ע"ש.⁹ Why would one think that there can be an איסור for lending since the ישראל is not receiving any payment?!¹⁰

he is liable for שבת. In any event if he is a שכיר יום he is not permitted to take pay for שבת. We see that שכר שבת is אסור even if one is not transgressing any איסור [and is hired before ע"ש].

⁸ He may lend it even just for שבת (where there is no הבלעה (swallowing). See 'Thinking it over'.

⁹ See footnote # 9.

¹⁰ See תוס' הרא"ש (at the very end).