



## OVERVIEW BAVA KAMA DAF 21

### Section 1: Do You Have to Pay for Living in Someone's Empty House?

#### The Basic Question:

**Question (R. Aba bar Zavda):** If Levi moved into Yehudah's empty courtyard without Yehudah knowing, does he have to pay rent?

#### Rav's Answer (through Rabah bar Rav Huna):

No, he doesn't pay. And separately: if someone rented a house from Reuven and it turned out the house actually belongs to Shimon, he pays the rent to Shimon.

#### A Contradiction:

The two statements seem to clash. If you don't have to pay when no one knew, why pay the real owner here?

#### The Resolution:

- If the house is normally rented out → he must pay.
- If it's not normally rented out → he's exempt.

#### R. Chiya bar Avin (same idea):

If Levi lived in Yehudah's courtyard without him knowing — no payment. If someone rented from townspeople and an owner shows up — he pays the real owner. Same resolution: only when it's normally rented.

#### Rav Sechorah's Reason:

He doesn't have to pay — because "a deserted house breaks down its own gates." An empty house falls apart. Yehudah actually *benefits* from someone living there!

- **Mar bar Rav Ashi:** I saw it — "She'iyah" (the spirit of desolation) gored like an ox. (Rashi: a destructive Shed. Ramah/Nimukei Yosef: dampness and mold that ruin a house.)

#### Rav Yosef's Reason:

A house that is lived in lasts longer.

#### The Practical Difference Between Them:

If Yehudah was already storing wood or straw in the house:

- **According to Rav Sechorah:** the house would have lasted anyway (the wood prevents desolation), so Levi must pay.
- **According to Rav Yosef:** Levi still gave a benefit (a lived-in house lasts better), so he's exempt.

#### A Case in Rav Nachman's Court:

A man built a house on a garbage lot belonging to orphans. Rav Nachman made him pay rent for the time he lived there.

**Inference:** Rav Nachman holds that you *do* pay even without the owner's knowledge!

**Rejection:** No — other people had been living there and paying the orphans a small rent. So the lot was normally being used for rent income.

- Rav Nachman told the man to settle up with the orphans. He refused, so Rav Nachman seized the house (until the man gave the orphans a fair price for a ruined lot to build on — Rosh).

### Section 2: An Animal That Sticks Its Neck Out to Eat

#### The Background:

An animal that eats in the Reshus ha'Rabim (public street) — its owner only pays for the *benefit* the animal got. If it eats from a private side area (Rechavah), it pays full damage.

#### Version #1:

**Rav:** The Mishnah's case is: the animal stretched its neck out from the public street to eat from the side.

**Shmuel:** Even then, it only pays for the benefit. The Mishnah's stricter case (pays damage) is when the animal physically left the street and went to the side.

**Version #2:**

**Rav:** If it stretched its neck — full damage.

**Shmuel:** Exempt for stretching; damage is only when it actually entered.

**Rav Nachman bar Yitzchak's Question:**

The Mishnah says: if it ate from a store entrance, it pays benefit. Isn't this stretching the neck?

**Answer:** No — the case is a corner store where the animal can eat without stretching at all.

**Version #3 (Rav and Shmuel agree on stretching):**

Both agree stretching the neck = full damage. They argue about a different case:

- If someone let people walk on his private land next to the street, and an animal ate there — Rav exempts, Shmuel obligates.

**What Are They Really Arguing About?**

**Suggestion:** They argue about whether a pit on private land that was declared Hefker creates liability.

- Rav: liable for such a pit → so food left there is Hefker → eater is exempt.
- Shmuel: exempt for such a pit → so food is not Hefker → eater must pay.

**Two Rejections of That Suggestion:**

- **Rejection #1:** Maybe Rav usually exempts for such a pit — here the food was just too close to the public street.
- **Rejection #2:** Maybe Shmuel usually obligates for such a pit — but animals don't see a pit, while they *do* see food, so the owner isn't really creating a hidden damager.

**Do Tana'im Argue About This?**

**Beraisa:** R. Meir and R. Yehudah say if it ate from the side of the Rechavah, it pays damage; R. Yosi and R. Elazar say animals only walk there normally, not eat.

After back-and-forth, the conclusion: they argue about Ilfa and R. Oshiya's cases (stretching to eat from another animal's load, and jumping) — not directly about our question.

**Section 3: Damage Caused by Jumping**

**The Mishnah:**

If a dog or kid (young goat) jumped off a roof and broke vessels, the owner pays full damage, because jumping is Mu'ad (this is normal animal behavior).

If a dog grabbed a cake with a hot coal in it, ran to a grain pile, ate the cake and burned the grain — full damage on the cake, half-damage on the grain.

**The Inference:**

The Mishnah says the dog *jumped*. If it had *fallen*, the owner would be exempt.

- This follows the view that one who is negligent at the start but Ones (forced) at the end is exempt.
- Support from a Beraisa: jumped → full damage; fell → exempt.

**How Does the Other Opinion Explain the Mishnah?**

The opinion that holds "negligent at the start, Ones at the end" is liable — how does it read the Mishnah?

**Answer:** The vessels are close to the wall. A jump won't normally break vessels right next to the wall — so letting the animal on the roof wasn't negligent. (R. Peretz, Rashba explain further.)

**Rav Zvid's Case — Liable Even for Falling:**

Sometimes *both* opinions agree the owner is liable for falling — for example, when the safety wall (Ma'akah) on the roof was weak.

**Question:** But here too, he was negligent at the start (weak wall) and Ones at the end (animal fell, not bricks)!

**Answer:** The Ma'akah is narrow or sloped — so animals tend to jump on it and slip off. Falling is the expected outcome.

**Jumping Up vs. Jumping Down:**

**Beraisa #1:** A dog or kid jumping up → exempt. Jumping down → liable. People and chickens are liable either way.

**Beraisa #2 (Version #1):** Exempt either way.

**Rav Papa's resolution:** Beraisa #2 deals with abnormal behavior — the dog jumped wildly, or the kid dug its hooves into the wall. That's Keren (intentional damage), so:

- Exempt from full damage, but pays half-damage.

