

VOLUME II: NUMBER 4: MONEY EXTRACTED FROM A VENDING MACHINE

by Rabbi Aron Tendler

Question:

Reuven decided to buy a soft drink from a vending machine that was supposed to give change. He put in a \$1 bill, and received neither his soft drink nor change. After realizing that the machine was broken, he attempted to retrieve his \$1 bill, but that did not work either. He gave up hope of getting his money back, and left it there and went about his business.

Shimon passed by this vending machine a little while later, and noticed that there seemed to be some money jammed in the machine. He gave the machine a bang, and the machine spewed forth fifty \$1 bills that had been left in there by various (thirsty!) people who had attempted to purchase drinks.

Who does this money belong to?

Answer:

If the money that the machine ejected was from people that did not receive the drinks that they had hoped to purchase (as in the case of our question), Shimon has the right to keep the money for himself. This is true even if Shimon himself did not intend to purchase anything from the machine.

If the people who had put the money in the machine did receive drinks, Shimon is obligated to make every effort to return the money to the owner of the vending machine.

Sources:

The Gemara in Bava Metziah (26b) states that if a person finds money on the floor of a store in a

manner that it was probably lost by one of the customers, the finder is permitted to keep it. In other words, although it was found in the domain (Chatzeir) of the store owner, he has no prior rights to this lost money over the finder. The reason for this is, although a person can acquire something with his Chatzeir, this is only if it is a Chatzeir HaMishtameres, lit. a protected domain. If it is exposed to others, and any items found in there are not necessarily protected exclusively to the owner, the fact that it is in your domain does not mean that it automatically acquires it for you. Since many different types of people are constantly in and out of the store, it can not qualify as a Chatzeir HaMishtameres. This is stated as the Halacha in the Shulchan Oruch (Choshen Mishpat 260:5) and is discussed at length in the Shach there (18).

In light of this, in our case, since the vending machine is located in a public area it is not considered a Chatzeir HaMishtameres, and the owner does not acquire anything "lost" in it. Although it may be more difficult for people to extract the money stuck within it than to pick money off of the floor of the store, since when money is lost attempts are made by the loser (and other passersby) to retrieve the money using all different kinds of techniques, it can not be considered "protected exclusively to the owner". The purchaser surely has no interest in gifting this money to the vendor. Therefore, if he leaves and gives up hope (Yiyush) of retrieving the money, this money is considered ownerless (Hefker), and anyone who succeeds in extracting it without damaging the machine in any way may do so and keep the money.

However, if the loser of the money is interested in having the money reach the owner of the Chatzeir only, even if the Chatzeir is not protected, it can not be considered Hefker and it must be considered owned by the owner of the Chatzeir. This is stated as the Halacha in the Shulchan Oruch (Choshen Mishpat 268:4). Therefore, if the purchaser received the drink, he definitely intended that the owner of the vending machine receive the money, so that he should not end up consuming a drink that had not been paid for. Consequently, the money can not be considered ownerless in this situation, and must be returned to the intended recipient, the owner of the vending machine.

Feedback is appreciated! It can be sent to atendler@torah.org.

This week's class is based on a column by Rabbi Tzvi Shpitz, who is an Av Bais Din and Rosh Kollel in the Ramot neighborhood of Jerusalem. His Column originally appears in Hebrew in Toda'ah, a weekly publication in Jerusalem. It has been translated and reprinted here with his permission and approval.

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Please Note: The purpose of this column is to make people aware of Choshen Mishpat situations that can arise at any time, and the Halachic concepts that may be used to resolve them. Each individual situation must be resolved by an objective, competent Bais Din (or Rabbinic Arbitrator) in the presence of all parties involved!