

# BAL TALIN - TIMELY PAYMENT OF WAGES

*by Rabbi Doniel Neustadt*

Bal talin, lit., it shall not remain overnight, refers to the Biblical command to pay wages to a Jewish employee or laborer "on the day" that he completes his job. It makes no difference whether or not the worker is rich or poor or if he is owed a substantial or an insignificant amount of money; once a worker has finished a job to the employer's satisfaction, he must be paid before the day is over. It is, therefore, advisable that before hiring any worker one should make sure to have cash at hand in order to pay his worker on time[1].

"On that day" means that a worker who finishes his job during the daytime must be paid by sunset of that day. If the worker has not been paid in full by sunset, his employer has transgressed one or more Biblical prohibitions[2]. Similarly, a worker who completes his job during the night must be paid in full before dawn. If the worker is hired for a full day [or night] or for a full week or month, he must be paid by the morning [or evening] after his term of employment is over.

Question: Does bal talin include monies owed to service contractors as well?

Discussion: Payment for work contracted by the job is also included in this commandment. Thus, when an item is taken in for repair or cleaning, etc., or if a plumber or an electrician comes into one's home for a specific job, payment must be made "on the day" that the item is picked up[3] or the job completed[4]. However, when contracting for a job in which the raw materials belong to the worker [as in the case of a builder], these laws do not apply. In this case, we view the relationship between them as one of a buyer and a seller, not as one of an employee and his employer[5].

These laws apply also to rental fees. When the rental period is over, payment must be made by the end of that day [or night][6]. There is a dispute among the Rishonim over whether these laws apply to property rentals as well[7]. The Chafetz Chayim rules that one who is late with his house rent transgresses this prohibition[8]. But bal talin applies only to rent charged at the end of the rental period, not to rent charged in advance of the rental. Nowadays, most residential leases require one to pay the monthly rental fee in advance. While one is still obligated to pay as per the terms of the contract, the Biblical prohibition of bal talin does not apply[9].

Question: Are all forms of payment considered "payment" vis-à-vis the halachos of bal talin?

Discussion: An employer cannot force his worker to accept compensation other than cash[10]. If a worker refuses payment by credit card, the employer must honor his demand and pay him in cash[11], or with a check that can be easily and quickly cashed before "the day" is over[12].

Payment must be made on time to a minor as well[13]. Thus, when a baby-sitter is hired, she must be paid before the day [or night] is over.

An employer who finds himself with no money[14] to pay his employee does not transgress this prohibition[15]. If he has no money but is able to borrow without incurring substantial fees, he should do so. Not having exact change on hand is no excuse to delay payment[16].

If the amount of payment is in dispute and will be settled in a din torah, the employer may withhold from the worker the amount which is in dispute, but must pay whatever amount is not in dispute on time in order to avoid bal talin[17]. Needless to say, it is always advisable for an employer and a worker to agree on the price before starting a job so as to avoid such disputes[18].

Question: Does bal talin apply if the worker is not particular whether or not he receives his payment "on that day?"

Discussion: The halachos of bal talin apply only if the worker asks—either himself or through a messenger[19] — to be paid. Even if the worker is too shy to ask outright, he still must be paid on time[20]. If, however, the worker does not mind being paid at a later date and consents to wait for his money, it is permissible to defer payment[21]. Even if he really wants to get paid on time but only agreed to defer payment because he is embarrassed to express his true wishes, the halachos of bal talin do not apply, as long as he explicitly gave his consent[22].

If the common practice in a given locality is to pay a laborer's wages at the end of the month or at a time when accounts are calculated, then the payment does not have to be made until then[23]. At that time, however, the payment must be made even if the worker does not demand it outright, since it is understood that he is supposed to be paid on that day[24].

It follows, therefore, that if a baby-sitter is hired for one session, she must be paid "on that day." This is because she expects to be paid immediately upon completion of her job. If, however, the baby-sitter is hired on a steady basis, then there is no deadline for the time of payment since many people do not pay their regular baby-sitter after each session[25].

It is permitted to make a pre-condition with a worker that he will not be paid on time[26]. This condition must be made before the worker agrees to do the job. Thus, even a one-time baby-sitter may be paid at a later date if she was told of this condition before she agreed to take the job.

A worker who takes a position with an employer (or an institution) who has a reputation for not paying on time, is considered as having agreed in advance to accept late payments. Bal talin does not apply[27].

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1. Sefer ha-Chinuch, 585. See Nesiv ha-Chesed 10:24.

2. Depending on the circumstances, there could be up to six different commandments (five negative

and one positive) that are transgressed when payment is not made on time; see C.M. 339:2 and Sma 4.

3. If the item is not being picked up, even though the repairman notified the owner that it is ready, the owner does not have to pick up the item and bal talin does not apply; Beiur Halachah O.C. 242, s.v. lechabed. See, however, Aruch ha-Shulchan, C.M. 339:8 who disagrees.

4. C.M. 339:6.

5. Ketzos ha-Choshen, C.M. 339:3; Aruch ha-Shulchan, C.M. 339:7; Nesiv ha-Chesed 10:4.

6. C.M. 339:1.

7. Pischei Teshuvah, C.M. 339:1.

8. Ahavas Chesed 9:5. This is also the ruling of the Ketzos ha-Choshen 339:1.

9. Avnei Yashfe 2:118, quoting Rav Y.S. Elyashiv; Business Halachah, pg. 179, quoting gedolei ha-poskim; Halachos Of other people's Money, pg. 127, quoting Rav S. Wosner and Rav A. Pam.

10. Shach, C.M. 336:4. See also Pischei Teshuvah, C.M. 336:1.

11. Rav Y.S. Elyashiv, quoted in Halachos Of other people's Money, pg. 107. Even when a worker or a service provider accepts credit card payment and bal talin is not transgressed, the employer does not fulfill the positive commandment of "paying that day," since a credit card payment is not considered "money"; ibid.

12. Rav M. Feinstein (written responsum published in Mili de-Nizakin, pg. 122) in a locale where it is customary to pay by check. See Pischei Choshen (Hilchos Sechirus 9, note 36) who questions if payment by check made after the bank's closing hours is valid.

13. Ahavas Chesed 9:5. See Nesiv ha-Chesed 16 who takes to task those who promise compensation to a minor and then do not pay him on time.

14. Even if the only money he has is needed for Shabbos expenses, he still must pay the worker first; Beiur Halachah, O.C. 242.

15. If he had money at the time the worker was hired and he spent it on other expenses, he has transgressed the prohibition; Ahavas Chesed 9:9.

16. Ahavas Chesed 9:7 and Nesiv ha-Chesed 21. He adds that if one has merchandise which could be sold, he should sell it in order to pay.

17. Rav Y.S. Elyashiv, quoted in Halachos Of other people's Money, pg. 105.

18. See Ahavas Chesed, end of chapter 10.

19. Rav Akiva Eiger, C.M. 339:10; Aruch ha-Shulchan 339:12.

20. Nesiv ha-Chesed 9:29, in a situation where the worker enters the employer's house but is too intimidated to ask for money.
21. C.M. 339:10. According to some poskim, it is improper to delay payment even if the worker does not explicitly ask for the money.
22. Rav Y.S. Elyashiv, quoted in Halachos Of other people's Money, pg. 113.
23. C.M. 339:9; Ahavas Chesed 9:13.
24. Rav Y.S. Elyashiv, quoted in Halachos Of other people's Money, pg. 112.
25. Rav M. Feinstein (written responsum published in Mili de-Nizakin, pg. 121).
26. Shach, C.M. 339:2.
27. Rav Y.S. Elyashiv, quoted in Halachos Of other people's Money, pg. 113. See also Avnei Yashfei 2:118

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