



## Lost and Found

The *Mishnah* (8:3) teaches that if one loses an item during the day and finds it later, he need not be concerned that it became *tameh*. The *Bartenura* explains that if someone had found the item and handled it, they would have taken it like anyone that finds a lost object. The *Mishnah* continues that if however, it was lost at night and found during the day or lost during the night and found during the day, or lost during day and found the next day, then the item should be considered *tameh*. The *Bartenura* explains that in all those cases, it is possible that during the night someone *tameh* came into contact with that item unawares.

The *Mishnah* then continues by adding a general rule, that provided that some night has passed when the object was lost, when found it should be considered *tameh*. When a *Mishnah* presents a general rule after a list of specific cases, it is generally understood that it must be including something else that was not already mentioned in the *Mishnah*. In this case however the *Tosfot Yom Tov* understands that the *Mishnah* is not teaching anything new, but rather providing a succinct way of remembering the *halacha*.

The *Tosfot Chadashim* however understands that had the *Mishnah* not followed with the rule, one might have thought that the law only applies if the item was lost either during the beginning or end of the night. If however it was lost in the middle of the night, when there are very few people around, one might have thought that there is no need for concern that the object became *tameh*. Consequently, the rule adds that if

it is lost at any time of the night, it would be *tameh* when found.<sup>1</sup>

The *Bartenura* explains that the ruling of the *Mishnah* applies only when the object was lost in the public domain. If however it was lost in the private domain, since all cases of doubt regarding *tumah* in the private domain are *tameh*, it does not matter when the item was lost and found, and it is considered *tameh*.

One might then ask, if doubts regarding *tumah* in the public domain are ruled as *tahor*, why does our *Mishnah* rule that if it is lost at some point during the night that it is *tameh*? The *Mishnah Achrona* explains that this is because it is almost certain that someone *tameh* stepped on it.<sup>2</sup>

The *Mishnah Achrona* notes that it would seem that the *Bartenura* contradicts his comment (6:6) that even in the private domain, if one can reason why the item did not become *tameh*, then it is *tahor*. The *Mishnah* there teaches that a doubt in the private domain is *tameh* unless one can say he did not come into contact with the *tumah*. The *Bartenura* explains that that statement need not be made with certainty and logical reasoning would also be sufficient. The fact that no one took the item might be considered such a justification. The *Mishnah Achrona* answers that because the item is in the private domain, even if one found it, they would reason that the owner intentionally left it there and not take it.<sup>3</sup>

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<sup>1</sup> The *Mishnah Achrona* suggest that the general rule is there to include cases where the items was not lost, but rather intentionally placed there and forgotten. While the *Tosfeta* is more lenient in those cases, it still rules that if it is left in the public domain, it is *tahor* and if it is left in the private domain it is *tameh* (*tameh midras*, but not *tameh met*).

<sup>2</sup> See also the *Tosfot, Sotah* (28b) who understands that during the night, *reshut ha'rabim* has the status of *reshut ha'yachid*.

<sup>3</sup> The *Mishnah Achrona* however questions this ruling. Recall that even though doubts regarding *tumah* in the private domain and generally ruled as

being *tameh*, there are several reasons why in this case it should be considered *tahor*. One of the reasons he raises is that if the doubt involves something that cannot be interrogated (*ein bo daat lishael*) – it does not involve a human being – then it is *tahor*. This would appear to be such a case. The rationale the *Mishnah Achrona* provided above regarding the public domain, that someone *tameh* definitely stepped on the item does not apply during the daytime in the private domain. The *Mishnah Achrona* leaves this question unresolved.

**Revision Questions**

טהרות טי: יי – ח: יד

- What is the status of the following areas for *tumah* and *Shabbat* (including all opinions):
  - An *Istavnit*?
  - A courtyard used as a public thoroughfare? (י: יי)
- What is the law regarding the wares of a potter that left them unattended in *reshut ha'rabim*? (Include both opinions.) (יא: יי)
- What is the law regarding a *chaver's* house if he entrusted his keys with an *am ha'aretz*? (יא: יי)
- Explain the debate regarding the contents of a *chaver's* house if he left an *am ha'aretz* there unattended. (יב: יי)
- Explain the debate regarding the contents of a *chaver's* house if he left tradesmen there unattended. (יג: יי)
- What are the two opinions regarding the contents of a *chaver's* house if she allowed an *am ha'aretz* use her mill? (יד: יי)
- What is the law regarding the contents of a *chaver's* house if he left an *am ha'aretz* to guard the house? (יה: יי)
- What is the law regarding the contents of a house into which tax collectors have entered? (יז: יי)
- What difference does it make if a *goi* was amongst the collectors? (יח: יי)
- What is the law regarding the contents of a house that has been robbed? (יט: יי)
- What is the law regarding one's utensils that he left in a bathhouse locker? (יא: יי)
- What is the law regarding a *kohen's* utensils that he left at the press from one seasons to the next? (יב: יי)
- Explain the debate regarding a *kohen* who abandoned his intention of eating more *trumah*. (יג: יי)
- Regarding the previous question, with respect to what is there consensus? (יד: יי)
- Regarding which people and cases do *R' Akiva* and the *Chachamim* argue? (טו: יי)
- Explain the debate regard a case where a *chaver* leaves his utensils in a *chatzer* shared with an *am ha'aretz*. (טז: יי)
- With respect to which *tumah* is one concerned if he entrusted a utensil with an *am ha'aretz*? (יז: יי)
- When does that law change? (יח: יי)
- What is *R' Yosi's* opinion regarding the previous two questions? (יט: יי)
- What is the general rule regarding when an item that is lost then found is considered *tameh*? (כ: יי)
- What is the law regarding clothes that are laid out in *reshut ha'rabim*? (כא: יי)
- How does the law change if the clothes were in *reshut ha'yachid*? (כב: יי)
- What is the law regarding one's bucket that fell in the well in the property of an *am ha'aretz* and was left unattended while the *chaver* went to get rope to retrieve it? (כג: יי)
- Explain the debate regarding a case where one left their house then returned finding it unlocked. (כד: יי)
- In which cases similar to the previous one, is there no debate? (כה: יי)

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**Next Week's Mishnayot...**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
11 July ב' אב	12 July ג' אב	13 July ד' אב	14 July ה' אב	15 July ו' אב	16 July ז' אב	17 July ח' אב
Taharot 8:5-6	Taharot 8:7-8	Taharot 8:9-9:1	Taharot 9:2-3	Taharot 9:4-5	Taharot 9:6-7	Taharot 9:8-9

