

The Broken Water Heater

by Rabbi Yisroel Casen

This summer, we rented an Airbnb in Arizona. Upon arriving late on Thursday evening, we discovered that the hot water was only lukewarm. It soon became apparent that the water heater was malfunctioning. On Friday morning we contacted the property management company and requested that they rectify the issue. A plumber was dispatched promptly, but he determined that the issue was electrical rather than plumbing related. Regrettably, the management company was unable to secure an electrician before Shabbos on such short notice. However, they offered to send one first thing on Saturday morning. Would it have been permissible for us to accept that offer?

What is the Shailah?

Issue 1: Amirah L'Nochri

For the electrician's work to be permissible, two issues must first be addressed. The first is whether a non-Jew may perform this type of melacha on Shabbos for the benefit of a Jew.

As a general rule, a non-Jew may not perform melacha on Shabbos for the benefit of a Jew, even if the arrangement was made before Shabbos began. If the melacha was done, the Jew may not derive benefit from it. However, if a non-Jew performs melacha for his own benefit as well, the Jew is allowed to benefit from it. In this case one can argue that the work was not being done solely for the Jewish renter's benefit. Rather, it was also in the interest of the non-Jewish homeowner. Although we were the ones requesting the water heater be repaired, the homeowner too had a strong independent interest in having the issue resolved promptly. A major issue with a vacation rental that isn't promptly addressed can lead to poor ratings from tenants, so presumably homeowners are motivated to fix issues promptly.

Accordingly, one could argue that the electrician's melacha would be performed for the benefit of both the non-Jewish homeowner and the Jewish tenant. If so, it would be permissible for the Jewish tenant to derive benefit from the work.

Of course, we could not have used hot water on Shabbos itself. Rather, the practical benefit would be that it could be used immediately after Shabbos. By contrast, when a non-Jew performs melacha solely for a Jew, the Jew must wait after Shabbos bichdei she'yaaseh—the amount of time it would take to perform the melacha—before deriving benefit.

Issue 2: Maris Ayin

The second, and more complex, issue is maris ayin—the concern that an otherwise permissible action may appear improper to observers.

Work Performed on a Jew's Premises

Even when it is permissible for a non-Jew to perform work from which a Jew will benefit, that work may not necessarily be done on the Jew's premises. The concern is that observers may assume the non-Jew is working as the Jew's employee or was specifically instructed to work on Shabbos.

Employee Versus Contractor

This distinction is especially important when comparing a per diem worker with an independent contractor:

- A per diem worker may not be hired to complete tasks on Shabbos, since this is effectively asking him to work for the Jew on Shabbos.
- An independent contractor, by contrast, works on his own schedule. If he independently chooses to complete the Jew's work on Shabbos, that is not inherently problematic, because the Jew did not direct him to work specifically on Shabbos.

For this reason, a non-Jewish dry cleaner may launder a Jewish customer's clothing on Shabbos, provided the Jew did not specify that the work be done then. The job was assigned without regard to timing, and the cleaner chose when to perform it.

The Limitation of This Leniency

This leniency has an important limitation: the work must not be performed on the Jew's premises. Even if the arrangement is technically permissible, *maris ayin* remains a concern when the work is visibly being done at a Jewish home or business.

Observers might mistakenly assume that the non-Jew is a per diem worker. Alternatively, even if they understand that he is an independent contractor—as would often be the case with painters, plumbers, or gardeners—they may still assume that the Jew specifically asked him to perform the work on Shabbos, which is not allowed.

By contrast, when the work is performed off-site, such as at a dry cleaner, this concern does not arise. Nothing about the setting indicates that the work is being done for a Jew.

Applying Maris Ayin to the Airbnb Scenario

The question, then, is whether the concern of *maris ayin* applies in this case. The home although owned by a non-Jew, was temporarily rented by a Jew and therefore presumably has the technical status of a "Jewish" residence. Practically, however, the concern seems far less compelling. We arrived only late Thursday night, making it highly unlikely that anyone would be aware the home was presently occupied by a Jewish family.

This raises the central question: Is there precedent to dismiss the concern of *maris ayin* when, although the property may technically be considered a Jewish residence, the surrounding circumstances make it unlikely that observers would perceive it that way?

A Possible Precedent: The Bathhouse Case

A potential precedent can be found in the laws of a bathhouse operating on Shabbos. Shulchan Aruch (OC 243:1) writes that a Jewish owner should not rent his bathhouse to a non-Jew to operate as a business on Shabbos. The concern is that observers may assume the non-Jew is the Jew's employee and is working on the Jew's behalf. Rema (243:2), however, rules that if the bathhouse is owned by a non-Jew and only rented by a Jew, the Jew may rent it out to other non-Jews for Shabbos. Although the Jew has a stake in the arrangement, the business is not publicly known as a Jewish business; it is known as belonging to the non-Jewish owner.

Biur Halacha explains further that even if some people know the Jew rented the bathhouse, it is reasonable to assume that those same people also know it was subsequently rented to a non-Jew.

Applying the Precedent to the Airbnb

The question is whether the same logic can be applied to the Airbnb scenario.

On the one hand, a Jew had rented the home for Shabbos. Technically, therefore, having visible contract work performed there on Shabbos could raise a concern of maris ayin.

On the other hand, the rental was extremely temporary, and it was unlikely that observers would know a Jewish family was staying there. Following the reasoning of the Biur Halacha, one might argue that neighbors who did notice a Jewish family temporarily occupying the home would likely also be aware that the property was an Airbnb, owned and managed by non-Jews.

The question, then, is whether that assumption is strong enough to remove the concern of maris ayin in this case.

What do you think?

Discuss it at your Shabbos table this week · shabboswithadas.com/resources