

Removing a Mezuzah when Moving

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I WAS TOLD THAT WHEN LEAVING MY CURRENT RESIDENCE, I CAN'T TAKE OFF MY MEZUZOS TO USE FOR THE NEW HOUSE. WHAT IF I NEED THEM? MAY I ASK FOR REIMBURSEMENT FROM THE NEW TENANT MOVING IN?

In numerous places in Shas (Pesachim 4a, *Baba Metzia* 102a and *Avodah Zara* 21a) it states, that the obligation of *mezuzah* is a "*chovas hadar*"; only when there is someone living in the house. Therefore, it should follow that when one moves out of a home, there is no longer any obligation of *Mezuzah*, and they may be removed. However, we find that this is not the case. The Gemara in *Baba Metzia* (ibid) forbids one to remove the mezuzos upon moving out of a location. The Gemara also warns of terrible consequences for one who does not abide by this *halachah*. This is cited in the *Shulchan Aruch* as well (YD 191:2).

The *Rishonim* explain the reasoning behind this prohibition. The *Sheiltos* (*Shelach*) explains that the issue is that the *mezuzah* is being removed from its *mitzvah*. Based on this explanation, if his intention is to put the mezuzos up in his new home immediately after removal, it would be permitted to remove them (*Ritva* ibid). However, the *Tosafos* (ibid) and others offer a different explanation, that the concern is that *mazikim* (evil spiritual forces) will overtake the house when the *mezuzah* is removed.

Therefore, it is forbidden to remove the mezuzos for any reason, even to put them up immediately in his new house (*Beis Yosef, Darchei Moshe* ibid). This would seem to be the view of Rashi (*Menachos* 44a) as well (*Parshah Sedurah* 60). Some Poskim maintain that even if the *mezuzah* was removed by mistake, or removed by someone else, it must be returned to its original place.

If, after leaving his first home, he is unable to obtain new mezuzos for himself in his new home, some Poskim suggest that he may rely on the aforementioned *Sheiltos* to take the original mezuzos to put into his new home (*Pischei Teshuvah* ibid 7, citing the *Birchei Yosef* ibid; see *Pri Megadim*, OC 15:2 who writes that in this situation even Tosfos will agree that it may be removed). However, the *Aruch HaShulchan* (3) is unsure of the validity of this *heter*.

The prohibition applies even if the home will be left empty for a period of time (see *Chovas Hadar* 1:12 nt 70). If there is a concern that the home will be sold or rented to a non-Jew, the *mezuzos* may be removed, for we are concerned that the *mezuzos* will not be treated with respect. If this is not a reasonable concern, for it is a predominately Jewish area etc., removing them would be prohibited. If one is renting a place from a non-Jew, it is permitted to remove the *mezuzos*, even if the next renter will be Jewish. The fact that the non-Jewish owner has control over the place is cause for concern (*Pischei Teshuvah* 9 in the name of the *Yaavetz*). However, there is a dispute in the Poskim if this applies when the home has already been rented out to a Jew (*Ar"H* 4, *Chelkas Yaakov* 1:123, *Mezuzos Beisecha* 11). There is an additional question if the *heter* applies when the new tenant is moving into the home immediately after the first one leaves, and the landlord will not have a chance to do anything to the *mezuzos* (*Kuntris HaMezuzah* 12).

If the owner, or the new tenant, is Jewish,

but not yet religious, whether or not to remove the *mezuzos* depends on his level of observance. If he is respectful of mitzvos, there is no concern that he will remove them and throw them out. If he has no appreciation of the concept of *mezuzah* and there is a genuine concern of disgrace to the *mezuzos*, they may be removed (*Igros Moshe*, YD 1:182).

There are Poskim who say that because the *mezuzos* may not be removed, they are considered part of the house in the rules of *Choshen Mishpat*. Therefore, if one sells his home to another Jew, the *mezuzos* are assumed to be included in the price of the house (*Pischei Teshuvah* ibid 8). To avoid this assumption, one must specify that they are not included in the sale. If the *mezuzos* are very expensive, even if there is nothing explicitly said between the two parties, there is an automatic assumption that they are not included in the sale of the house (Dayan Fuerst *shlita* in the name of Rav Moshe *zt"l*). If they are not sold to the buyer, or a tenant is leaving an apartment to another tenant, the Beis Yosef (ibid) writes that if the owner of the *mezuzos* insists that he be compensated, it is good for the second person to pay. This implies that it is not an absolute obligation. However, the Rema (ibid) writes that the second tenant must pay for the *mezuzos* that are being left in the home. The Maharil Diskin (KA 178) and Rav Moshe *zt"l* (*Igros Moshe* YD 4:44) rule that it is an absolute obligation to pay. However, if the *mezuzos* are expensive, the second person does not have to pay the full price. The reason he must pay is that he is benefitting by not having to spend his own money on *mezuzos*. Therefore, he must pay only the amount he would have paid himself for a kosher *mezuzah*, not more (see *Agur Be'ahalecha* 42: notes 44-46). If the second person refuses to pay, some Poskim allow the first person to remove his *mezuzos* (*Birkei Yosef* ibid). Most Poskim disagree and maintain that it is still forbidden (*Ar"i*, *Mesores Moshe* Vol.1 pg. 339, *Mezuzos Beisecha* ibid 10, *Chovas Hadar* 1:51). Rav Shternbuch (1:641) writes that since there is danger involved one should be stringent.

Even if the renter already has his own *mezuzos* which he can put up himself right away, the old

tenant may not remove his own *mezuzos* (*Pischei Teshuvah* ibid:7). If the new tenant chooses of his own volition to replace the first tenant's *mezuzos*, the first tenant may then claim them, as he is still the rightful owner (*Birur Halachah*).

The Poskim mention a way in which he may take his own *mezuzos* when leaving. If his *mezuzos* are of a higher quality, they may be switched for those of a lesser quality, and those *mezuzos* will be the ones left behind (*Da'as Kedoshim* ibid 1 cited in the *Chovas Hadar* 1:52 and *Minchas Yitzchok* 5:110). There are a number of conditions for this *heter*. One is that the second set of *mezuzos* must belong to the first person and not the second tenant. Secondly, he may only remove the old *mezuzos* if he intends to use them immediately for his new dwelling place. Thirdly, Rav Moshe *zt"l* ruled that this switch may only be made while he is living in the house (*Mesores Moshe* vol. 3 pg. 275, vol. 4 pg. 298). Once he leaves the home, he may no longer switch the *mezuzos*. However, it is recorded that when the Brisker Rav *zt"l* asked his father Rav Chaim *zt"l* if he may do such a thing, Rav Chaim answered, "We don't start up with *mezuzos*" (*Peninei Hagri"z* p. 30, see also Rav Shternbuch 1:654 from the *Chazon Ish*).

If the *mezuzos* were removed while the apartment is being painted, Rav Henkin is quoted as allowing them to be removed. He added that since it is the standard procedure in New York for an apartment to be painted for the new tenant, the first person may remove them as soon as he leaves, for they will be removed from the post anyway (*Kisvei Rav Henkin* Vol. 1, p. 114, *Gevuros Eliyahu* YD 144:4). Rav Moshe *zt"l* allowed a questioner, a talmid of Rav Henkin, to rely on this *pesak* (see *Igros Moshe* ibid). One should ask a *shailah* before using this *heter*.

However, if one were to remove *mezuzos* for a paint job, or to have the *mezuzos* checked, all would agree that it is permitted to then switch them for inferior, but kosher *mezuzos* (*Da'as Kedoshim* ibid).



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