בס״ד

Shiurim In English

Shiur: 5

ישיבה גדולה "יואל"

A publication of the Rabbinical College of Australia & New Zealand

www.rabbinicalcollege.edu.au/Shiurim shiurim@rabbinicalcollege.edu.au

פסחים ד' ע"א

"המשכיר בית לחברו על מי לבדוק"

The סוגיא in brief, and various difficulties

The גמ' asks: If one rented a house on י"ד ניסן, who must perform the בדיקה? Is it the משכיר's obligation – being that the חמץ is his ["דחמירא דידיה הוא"], or is it the שוכר's obligation – being that the חמץ is in his domain ["דאיסורא ברשותיה קאי"]? The גמ' suggests that this דין may be inferred from the דין of מזוזה; since affixing the מזוזה is the responsibility of the שוכר, it follows that בדיקה is also the responsibility of the שוכר. The גמ' ultimately concludes that no proof can be inferred from the case of מזוזה, being that מזוזה is "חובת הדר" (the obligation of the dweller).

The questions on this סוגיא abound[1]:

a) The ראשונים explained on דף ב' ע"א that the חכמים instituted בדיקת חמץ in order to address a specific concern. According to רש"י, the חכמים required בדיקת חמץ in order to prevent one from transgressing בל יראה ובל ימצא in the event that his ביטול was deficient. According to תוס', the חכמים required בדיקת חמץ so that one should not encounter חמץ and inadvertently eat it. Accordingly, the answer to the גמ''s question should be simple; according to רש"י, the obligation of בדיקה should rest with the one who is liable to transgress בל יראה ובל ימצא, whereas according to תוס', the obligation of בדיקה should rest with the one who is most likely to encounter the חמץ and inadvertently eat it! If so, what is the גמ''s query?

b) Why does the גמרא mention that the rental occurred on י"ד ניסן? What difference does it make whether the rental occurred on י"ד ניסן, or prior?

c) It is difficult to understand how the גמ' even **suggests** that there is a connection between מזוזה and חמץ. For, with regards to בדיקת חמץ, there are "two sides to the coin"; there is reason to obligate the משכיר – for the חמץ is his, and there is reason to obligate the שוכר – for the חמץ is within his domain. With regards to מזוזה however, there only seems to be "one side to the coin" (figuratively speaking); there only seems to be a reason to obligate the שוכר – for the house is in his possession. However, there does not appear to be any reason for

---

[1] Aside from all the listed questions, there is another matter which must be considered. The גמ' does not discuss who transgresses בל יראה ובל ימצא, and who must therefore perform ביטול; the משכיר or the שוכר. It seems that the גמ' considered the answer to be obvious, and therefore didn't (explicitly) shed light on this issue. As a result, the מפרשים and פוסקים debate this issue, siding with just about every possible position; the תו"ח and פנ"י explain (according to רש"י) that **both** are עובר; the ר"ן and רבינו דוד hold that **neither** are עובר; רבינו פרץ and the מהרש"ל hold that the **משכיר** is עובר; whereas the מג"א holds that the **שוכר** is עובר. In a sense, this fundamental issue is the undercurrent of the entire סוגיא; one's position on this matter affects how one explains the flow of the סוגיא.

In some of this שיעור's footnotes, (namely, footnotes 2, 3, 4, 6 and 7) we will focus on this issue, at length. The reader may prefer to read and master the שיעור without focusing on these footnotes, and then, to review it again with these footnotes.

obligating the משכיר! If so, how could the גמ׳ even have **attempted** to infer the דין of בדיקת חמץ from the דין of מזוזה?

There are a great number of approaches to explaining this סוגיא. We will focus on one possible explanation of שיטת רש״י, and the two approaches of תוס׳. These approaches diverge at just about every step of the way.

Answer to Question a: Explanation of the גמ׳'s query

שיטת רש״י – based on the תורת חיים[2]

רש״י provides enough information to exclude most of the interpretations of the other ראשונים. However, there does not seem to be enough information in רש״י to pinpoint what exactly he holds. There are several compatible explanations, and we will focus on the explanation of the תורת חיים.

As mentioned above, רש״י is of the opinion that the חכמים required בדיקת חמץ in order to prevent one from transgressing בל יראה ובל ימצא in the event that his ביטול was deficient. In the case of משכיר and the שוכר, the obvious question is who exactly transgresses בל יראה ובל ימצא? The תורת חיים asserts that without ביטול, both the משכיר and the שוכר transgress בל יראה ובל ימצא. The משכיר transgresses because the חמץ is his[3], and the שוכר transgresses because the חמץ is in his domain[4].

---

[2] See מהרש״ל and מג״א סי׳ תל״ו ס״ק ט״ז for different explanations of רש״י.

[3] Question: The fact that the משכיר left his חמץ in the rented house, knowing full well that it might be consumed, would appear to be the greatest form of ביטול. If so, why does he transgress בל יראה ובל ימצא?

Answer: On דף ד׳ ע״ב, we will learn about a fundamental debate regarding the mechanics of ביטול. Most ראשונים hold that ביטול is a form of הפקר (see footnote 6 for further details); accordingly, it is valid to ask why the משכיר's disregard for his חמץ isn't an effective ביטול! According to רש״י however, ביטול is something else entirely; ביטול is not about the owner relinquishing **ownership**, but rather, about viewing the חמץ as **inherently** insignificant – like the dust of the earth. In our case, the משכיר has not declared the חמץ itself to be **inherently** insignificant, and therefore, it is certainly not בטל.

Further question: It is true that the משכיר's disregard for his חמץ is not an acceptable form of ביטול! Yet, he should still be absolved from בל יראה ובל ימצא, being that the חמץ is הפקר! If so, why does he transgress בל יראה ובל ימצא?

Answer: First of all, since רש״י holds that ביטול is not הפקר, there is no clear proof that he absolves one from בל יראה ובל ימצא for חמץ that he declared הפקר. [See רמב״ן on דף ד׳ ע״ב and פנ״י on דף ה׳ ע״ב.] Secondly, even if רש״י holds that one is absolved from בל יראה ובל ימצא for חמץ that he declared הפקר, nevertheless, an item cannot be considered הפקר simply because the owner disregarded his item. Rather, the owner must make a formal declaration. In the absence of a formal declaration, the חמץ still belongs to the משכיר, and he will transgress בל יראה ובל ימצא.

[4] The תורת חיים bases this on the פסוק of ״לא יראה ... חמץ ... בכל גבולך״ (“you shall not see חמץ in all your borders”). Indeed, רש״י elsewhere seems to indicate that one transgresses for all חמץ in his possession, even if belongs to another איד:

a. The גמ׳ on דף ה׳ ע״ב states ״שלך אי אתה רואה, אבל אתה רואה של אחרים ושל גבוה״ – “you may not see **your** חמץ, but you may see the חמץ of “others” and of הקדש”. According to most ראשונים, “others” is quite literal; it refers to anyone aside from oneself. Accordingly, the גמ׳ teaches that one does **not** transgress for someone else's חמץ that is in his רשות. However, רש״י explains that “others” refers to נכרים. Accordingly, the גמ׳ teaches that one does not transgress for the חמץ of a **נכרי** when it is in his רשות; implying that one **does** transgress for the חמץ of another **איד** when it is in his רשות.

b. Without going into the context of the גמ׳ on דף מ״ו ע״ב, we see that רש״י states ״וקרא כתיב שלך אי אתה רואה, וזה אינו שלך ולא של חבירך״ – “the פסוק states that you may not see **your** חמץ, but this חמץ is not yours, nor is it your friend's”. With these words, רש״י seems to equate having one's own חמץ with having a friend's חמץ (as opposed to חמץ not owned by a איד).

These proofs are further elaborated upon on דף ה׳ ע״ב.

According to this explanation of רש״י, it emerges that one can – and must – perform ביטול for חמץ in his possession, even though he does not even own it! This notion is entirely incompatible with the opinions of most ראשונים, who hold that ביטול is a form of הפקר (see footnote 6 for further details); accordingly, it is completely contradictory to say that one can nullify חמץ that he does not own! If he does not own the חמץ, how can he make it הפקר? According to רש״י however, ביטול is something else entirely; ביטול is not about relinquishing **ownership**, but rather, about viewing the חמץ as **inherently** insignificant – like the dust of the earth. Thus, it is not contradictory to nullify חמץ that one does not own!

Thus, both the משכיר and the שוכר must perform ביטול חמץ, for the responsibility of בל יראה ובל ימצא rests with both of them. Similarly, if neither of them performed ביטול חמץ, they both bear **equal responsibility**[5] of performing בקידת חמץ, being that בל יראה ובל ימצא applies to both of them.

The query of the גמרא applies only when ביטול was already performed, in which case the בדיקה is required only מדרבנן. Although the concern for which the בדיקה was instituted (that one's ביטול may be deficient) applies to both the משכיר and the שוכר, nevertheless, it stands to reason that the חכמים didn't inconvenience both the משכיר and the שוכר with the task of בדיקה. Thus, the query; did the חכמים obligate the משכיר, being that the חמץ is his, and he is liable to transgress בל יראה ובל ימצא in the event that his ביטול was deficient? [This is the meaning of ״דחמירא דידיה הוא״; since it is his חמץ, he is liable to transgress בל יראה ובל ימצא in the event that his ביטול was deficient.] Or, did the חכמים obligate the שוכר, being that the חמץ is in his domain, and he also stands to transgress בל יראה ובל ימצא in the event that his ביטול was deficient? [This is the meaning of ״דאיסורא ברשותיה קאי״; since it is in his domain, he is liable to transgress בל יראה ובל ימצא in the event that his ביטול was deficient.]

It should be noted that, according to this explanation, the underlying logic of whether to obligate the משכיר and the שוכר is **essentially** the **same**; they **both** stand to transgress בל יראה ובל ימצא in the event that their ביטול was deficient! Since **exactly** the **same** concern applies to both, the גמרא is uncertain as to who is charged with the task of בדיקה!

First approach of תוס׳

As mentioned above, תוס׳ is of the opinion that בדיקת חמץ is required so that one should not encounter חמץ and inadvertently eat it. If so, it would appear that the חיוב of בדיקה should certainly rest with the שוכר, for he is the one who is most likely to encounter the חמץ and eat it! Indeed, we see that תוס׳ does not deem it necessary to explain why one would think that the חיוב of בדיקה rests with the שוכר. Instead, all of תוס׳'s energies – in both of their explanations – are focused on explaining why one might think that the חיוב of בדיקה rests with the משכיר, even though he is far less likely to encounter the חמץ and inadvertently eat it!

In their first approach, תוס׳ states that only the משכיר is able to be מבטל the חמץ that he left behind[6], and not the שוכר[7]. Since the משכיר is required to perform ביטול, this might be sufficient reason to obligate him with the בדיקה as well!

---

[5] Of course, it is unnecessary for both of them to perform the **actual** בדיקה, for, in practice, בדיקה requires only one person. Nevertheless, the **responsibility** of בדיקה rests with both. [A similar example: If several people spot a מציאה at the same time, they all have a **responsibility** to perform השבת אבידה. Practically speaking though, this responsibility will be fulfilled by the one who gets to it first.]

[6] According to this first approach of תוס׳, who transgresses בל יראה ובל ימצא – the משכיר or the שוכר? Two possibilities:

a. If we align the position of תוס׳ with that of רבינו פרץ, it seems that the משכיר alone transgresses בל יראה ובל ימצא, and that is why only he can perform ביטול. Yet, this requires explanation: The fact that the משכיר left the חמץ in the rented house, knowing full well that it might be consumed, would appear to be the greatest form of ביטול! If so, why does the משכיר transgress בל יראה ובל ימצא?

   A possible answer: According to those ראשונים who hold that ביטול is הפקר, there is some debate as to whether ביטול is basically identical to the standard form of הפקר – which requires a formal declaration, or whether it is a lesser form of הפקר for which mere intent is sufficient. [The rationale of this debate is explained on דף ד׳ ע״ב.] Accordingly, תוס׳ might be of the opinion (as implied by a simple reading of their words on דף ד׳ ע״ב) that ביטול is identical to the standard form of הפקר, and a formal declaration is therefore required. In the absence of a formal declaration, the חמץ still belongs to the משכיר, and he will transgress בל יראה ובל ימצא.

b. From the words of the Alter Rebbe (in סי׳ תל״ז קו״א אות ג׳), it appears that the intent of תוס׳ might be different. It may very well be that תוס׳ regards ביטול as a lesser form of הפקר, and mere intent is sufficient. Therefore, by showing disregard for his חמץ and leaving it behind, the משכיר has effectively been מפקיר his חמץ, and he no longer transgresses בל יראה ובל ימצא. Nevertheless, the חכמים instituted that ביטול must be verbalized (as the Alter Rebbe rules in סי׳ תל״ד סעיף ז׳), and the משכיר must therefore perform ביטול in order to discharge this חיוב דרבנן.

This explanation of תוס׳ requires explanation: What is the connection between ביטול and בדיקה? In fact, תוס׳ are the ones who emphasized (on דף ב׳ ע״א) that ביטול and בדיקה address two distinct issues; ביטול addresses the issue of בל יראה ובל ימצא, whereas בדיקה (when performed after ביטול) is a תקנת חכמים designed to prevent one from encountering and inadvertently eating חמץ! Since these are two essentially different issues, what is the reason to link the two?

The answer to this question may gleaned from the Alter Rebbe's שו״ע (in או״ח סי׳ תל״ז קו״א אות ב׳): The הלכה (based on רש״י דף ו׳ ע״א) is that one must perform ביטול **immediately** after בדיקה, (even though the appropriate time for ביטול would seem to be at the time of ביעור,) lest one forget to perform ביטול later. [I.e. ביטול is a short verbal declaration, and one might overlook it. Conversely, בדיקה is a lengthy and involved process, and it is unlikely that one will forget about it. Therefore, the חכמים required ביטול to be performed immediately after בדיקה, so that the בדיקה will serve as a reminder to perform ביטול.]

Now, we know that a תקנת חכמים involves two aspects:

״למה תיקנו״ – **Why** they made the תקנה.

״איך תיקנו״ – **How** they made the תקנה.

To apply this to our case, the חכמים's **reason** to institute בדיקה was in order to prevent one from encountering and inadvertently eating חמץ on פסח. With regards to the **actual** תקנה, the חכמים required ביטול to be performed immediately after בדיקה.

Accordingly, the גמ׳'s question is: When the ״למה תיקנו״ and the ״איך תיקנו״ conflict, which one is the decisive factor? Does the ״איך תיקנו״ dictates that the בדיקה is the משכיר's responsibility, as he is the only one who can perform ביטול? [This is the meaning of ״דחמירא דידיה הוא״; it is his חמץ, and he is the only one who can perform ביטול.] Or, does the ״למה תיקנו״ dictate that the בדיקה is the שוכר's responsibility, in order to ensure that he does not encounter any חמץ? [This is the meaning of ״דאיסורא ברשותיה קאי״; it is in his domain, and he is therefore the one most likely to encounter the חמץ and inadvertently eat it.]

It should be noted that, according to this explanation, the underlying logic of whether to obligate the משכיר and the שוכר is **different**; the reason to obligate the שוכר is because of the ״למה תיקנו״, and the reason to obligate the משכיר is because of the ״איך תיקנו״.

Second approach of תוס׳

As mentioned above, תוס׳ does not need to explain why one would think that the חיוב of בדיקה rests with the שוכר, for he is the one most likely to encounter the חמץ and inadvertently eat it! Rather, תוס׳ must explain why one might think that the חיוב of בדיקה rests with the משכיר!

In their second approach, תוס׳ explains that since the rental occurred on י״ד ניסן, the חיוב of בדיקה certainly rested with the משכיר at the very beginning of י״ד ניסן. [For, at that point in time, both the house and the חמץ belonged completely the משכיר; thus, it is obvious[8] that the חיוב of בדיקה rests with him.] This leads to the גמ׳'s query: Does the initial חיוב of the משכיר remain with him even

---

[7] The שוכר cannot perform ביטול, and also does not transgress בל יראה ובל ימצא, because the חמץ is not his. The reason that the חמץ is not his is either because it still belongs to the משכיר (first approach in footnote 6), or even if the חמץ no longer belongs to the משכיר (second approach in footnote 6), the שוכר does not wish to acquire it!

According to the Alter Rebbe (in סי׳ תל״ז קו״א אות ג׳), the final position of תוס׳ may be different; since תוס׳ ultimately rejects this approach, they may very well maintain that the שוכר **does** transgress בל יראה ובל ימצא, because that the חמץ no longer belongs to the משכיר, and the שוכר automatically acquires it!

[8] The way that תוס׳ explains the מסקנא of the גמ׳, this is not always the case. Still, at this point, the גמ׳ assumes that the משכיר certainly has the חיוב of בדיקה at the beginning of י״ד, being that both the house and the חמץ are in his jurisdiction.

when there is currently more reason to obligate the שוכר[9]? Or, is the initial חיוב of the משכיר uprooted when there is currently more reason to obligate the שוכר, being that the concern for which בדיקה was instituted (that one may encounter חמץ) is currently more applicable to him? [This is the meaning of ״דאיסורא ברשותיה קאי״; the חמץ is in his domain, and the concern for which בדיקה was instituted is currently more applicable to him.]

It should be noted that, according to this explanation, the גמ׳ is not asking whether there is more reason to obligate the משכיר or the שוכר with בדיקה; it is clear that the חכמים's concern for which בדיקה was instituted was previously (i.e. before the rental occurred) more applicable to the שוכר, and is currently (i.e. after the rental occurred) more applicable to the שוכר. Rather, the question of the גמ׳ is whether one's initial חיוב remains in place even when there is currently more reason to make someone else responsible.

Answer to Question B: The rental occurring on י״ד ניסן

The גמרא deliberately mentions that the rental occurred on י״ד ניסן, implying that only then is there uncertainty as to who performs בדיקה. However, if the rental occurred on י״ג ניסן, the גמ׳ is convinced that the חיוב of בדיקה most certainly rests with the שוכר! Why is the גמ׳ so certain?

It was in order to address this very problem that תוס׳ ultimately proposed their second approach. For, according to this approach, the only reason to think of obligating the משכיר is because the חיוב of בדיקה rested with him at the very beginning of י״ד ניסן! With regards to a rental which occurred on י״ג ניסן however, there is no reason whatsoever to obligate the משכיר, for the חיוב of בדיקה didn't ever rest with him! Thus, the גמ׳ asks only regarding a rental that occurred on י״ד ניסן, and not about a rental that occurred on י״ג ניסן!

However, this question still remains problematic according to the opinion of רש״י and the first approach of תוס׳; why does the גמרא state that the rental occurred on י״ד ניסן, to the exclusion of י״ג ניסן? According to these ראשונים, the reasons to obligate the משכיר or the שוכר are entirely unrelated to the timing of the rental! [For, according to רש״י, the גמ׳'s doubt regarding who to obligate hinges on the fact that both the משכיר and the שוכר are liable to transgress בל יראה ובל ימצא in the event that their ביטול is deficient. Accordingly, what difference does it make whether the rental occurred on י״ג ניסן or on י״ד ניסן? Similarly, according to the first approach of תוס׳, the גמ׳'s doubt regarding who to obligate is because the ״איך תיקנו״ indicates that the משכיר should perform בדיקה, whereas the ״למה תיקנו״ indicates that the שוכר should perform בדיקה. Accordingly, what difference does it make whether the rental occurred on י״ג ניסן or on י״ד ניסן?]

Based on the מהר״ל, we may answer as follows: When a rental occurs on י״ג ניסן, before the time of בדיקה, it is reasonable to assume that the שוכר may have brought his own חמץ into the rented premises. As such, he is certainly obligated to perform בדיקה, on account of his **own** חמץ. Consequently, it is pointless to discuss who must perform בדיקה on account of the משכיר's חמץ, being that the שוכר is in any case obligated to perform בדיקה on account of his own חמץ! Conversely, when the rental occurs on י״ד ניסן, after the time of בדיקה, it is safe to assume that the שוכר did not bring his own חמץ into the premises, and thus, he is not obligated to perform בדיקה on account of

[9] It is difficult to understand how this explanation of תוס׳ can be inserted into the words ״דחמירא דידיה הוא״; according to תוס׳, the issue is not about whose חמץ it is, but rather, about whether the משכיר's earlier חיוב was uprooted after the circumstances change. If so, why does the גמ׳ mention ״דחמירא דידיה הוא״? The שפת אמת answers: Even if we accept that the משכיר's initial חיוב remains in force after the circumstances change, this is only if his initial חיוב to perform בדיקה was on account of his **own** חמץ. However, if his initial חיוב was solely on account of **someone else's** חמץ present in his house, then the חיוב is certainly uprooted once circumstances change. This is what the words ״דחמירא דידיה הוא״ mean; there is reason to think that the משכיר's חיוב is not uprooted, only because his initial חיוב was on account of his **own** חמץ. [See שפ״א for further explanation.]

his own חמץ. Consequently, it is necessary to discuss who must perform בדיקה on account of the משכיר's חמץ. Thus, the גמ׳ asks only about a rental that occurred on י״ד ניסן, and not about a rental that occurred on י״ג ניסן[10]!

Answer to Question C: The suggestion to equate בדיקה with מזוזה

שיטת רש״י – based on the תורת חיים

This שיטה holds that the underlying logic of whether to obligate the משכיר and the שוכר is **essentially** the **same**; they **both** stand to transgress בל יראה ובל ימצא in the event that their ביטול was deficient! Since the **same** concern applies to both, the גמרא is uncertain as to who should be charged with the task of בדיקה!

Accordingly, when suggesting a parallel between בדיקה with מזוזה, the גמ׳ must have thought that there is **essentially** the **same** reason to obligate both the משכיר and the שוכר to affix the מזוזה! As the אחרונים explain, although a rented house is the שוכר's to **use**, the **actual** house belongs to the משכיר. On this basis, the גמ׳ thought that there is **essentially** the **same** reason to obligate both the משכיר and the שוכר; they are both associated with the house! In spite of this, the הלכה is that the שוכר must affix the מזוזה, and the גמ׳ assumed this to be because he is responsible for implementing all of the מצות pertaining to the house. The גמ׳ applied this to בדיקה as well; although there is equal reason to obligate both the משכיר and the שוכר, nevertheless, the שוכר must implement the בדיקה, being that he is responsible for implementing all of the מצות pertaining to the house!

The גמ׳ concludes that מזוזה and חמץ cannot be equated, because מזוזה is ״חובת הדר״ (the obligation of the dweller). According to רש״י, this refutation is easily understood; the גמ׳'s suggested parallel between מזוזה and בדיקה was based solely on the premise that affixing the מזוזה is, in theory, both the obligation of the משכיר and שוכר. This is refuted when the גמ׳ concludes that affixing the מזוזה is, even in theory, solely the obligation of the שוכר.

First approach in תוס׳

This שיטה holds that the underlying logic of whether to obligate the משכיר and the שוכר is **different**; the reason to obligate the שוכר is because of the ״למה תיקנו״, and the reason to obligate the משכיר is because of the ״איך תיקנו״.

With regards to מזוזה, it would be insufficient for his approach of תוס׳ to explain (as we did for רש״י) that there is **essentially** the **same** reason to obligate both the משכיר and the שוכר! For, if this was true, it would not clarify anything about בדיקה, where the reasons to obligate the משכיר or the שוכר are **different**, and the question is which factor outweighs the other! Therefore, a different explanation is necessary!

The תוס׳ ר״ש משנץ explains the suggestion of the גמ׳ as follows: The גמ׳ initially assumed that the משכיר alone obligated to affix a מזוזה, for the actual house is his, and the שוכר merely uses the house. Nevertheless, **in practice**, the שוכר must affix the מזוזה, and the גמ׳ assumed this to be because he is responsible for implementing all of the מצות pertaining to the house. If so, **how much more so** with regards to בדיקה; if the שוכר must implement any מצוה of the house even when it is **definitely** the משכיר's obligation (i.e. מזוזה), then he must certainly implement any מצוה of the house when there is **doubt** as to whether is it the משכיר or the שוכר's obligation (i.e. בדיקה).

The גמ׳ concludes that מזוזה and חמץ cannot be equated, because מזוזה is ״חובת הדר״ (the obligation of the dweller). According to the first approach of תוס׳, this refutation is easy to understand; the גמ׳'s suggested parallel between מזוזה and בדיקה was based solely on the premise that affixing the

[10] תוס׳ may be unsatisfied with this approach, because even if the rental occurred on י״ג ניסן, perhaps the שוכר did not bring any חמץ into the premises, in which case he would have no independent obligation to perform בדיקה.

מזוזה is, in theory, the obligation of the משכיר alone. This is refuted when the גמ׳ concludes that affixing the מזוזה is, even in theory, solely the obligation of the שוכר.

Second approach in תוס׳:

This שיטה holds that the גמ׳ is not asking whether there is more reason to obligate the משכיר or the שוכר with בדיקה; it is clear that the חכמים's concern (that he may encounter and eat the חמץ) was previously (i.e. before the rental occurred) more applicable to the שוכר, and is currently (i.e. after the rental occurred) more applicable to the שוכר. Rather, the question of the גמ׳ is whether one's initial חיוב remains in place even when there is currently more reason to obligate someone else.

According to this approach, the גמ׳'s suggested parallel between מזוזה and בדיקה must be understood as follows: The גמ׳ initially assumed that the one who dwells in the house is obligated to affix the מזוזה. Thus, it was clear to the גמ׳ that the requirement to affix the משכיר initially rested with the משכיר when he lived there, and it subsequently rested with the שוכר after he rented it! The דין is that the שוכר must affix the מזוזה, which seems to prove that the משכיר's initial חיוב is uprooted after the circumstances change, and there is currently more reason to obligate the שוכר. The גמ׳ infers the same with regards to חמץ too; the משכיר's initial obligation to perform בדיקה is uprooted after the circumstances change, and there is currently more reason to make the שוכר responsible.

The גמ׳ concludes that מזוזה and חמץ cannot be equated, because מזוזה is ״חובת הדר״ (the obligation of the dweller). According to the second approach of תוס׳, this refutation seems difficult to understand; the גמ׳ knew all along that affixing the מזוזה is, even in theory, solely the obligation of the one who lives there. If so, what did the גמ׳ accomplish by stating that מזוזה is ״חובת הדר״? This doesn't seem to refute the גמ׳'s assumption – in fact, it seems to support it?

In order to answer this question, תוס׳ **redefines** what the principle of ״מזוזה חובת הדר״ means. As we saw previously, רש״י and the first approach of תוס׳ understood this principle as defining **who** must affix the מזוזה. However, according to the second approach of תוס׳, this principle defines **whether** one must affix the מזוזה! In other words, the גמ׳ is pointing out that a house needs a מזוזה only when someone lives there, and not when nobody lives there!

Accordingly, the דין of בדיקה cannot be derived from the דין of מזוזה! For, with regards to מזוזה, the משכיר was not truly bound by his חיוב when he lived at his property, for he could have eluded the חיוב simply by moving out. Since the משכיר's obligation to affix the מזוזה was not an insurmountable one, it becomes uprooted when there is currently more reason to obligate the שוכר. Conversely, with regards to בדיקה, the משכיר was truly bound by his חיוב when he lived at his property, and he could not have circumvented it simply by moving out. Since the משכיר's obligation to perform בדיקה was insurmountable, perhaps it does not become uprooted even when there is currently more reason to obligate the שוכר.