

## **A CONFLICT OF INTEREST**

June 4, 2020

**Q:** I am a residential landlord. When a tenant signs a lease, he provides me with a security deposit, which I am legally required to deposit into an interest-bearing escrow account. I confess that I often didn't do so and instead used the funds for my own expenses. (I wasn't concerned about coming up with the money to return to the tenant at lease end, because I have sufficient cash reserves.) I regret this and would like to return a now-departing tenant's deposit with the interest it would have earned had I escrowed it. Is this a problem of forbidden interest, considering that this tenant is Jewish?

**A:** You are indeed correct; this would be a violation of *ribbis*. You effectively borrowed the money from your tenant (see Shulchan Aruch Y.D. 168:13), so returning more than you borrowed constitutes *ribbis*. Hence you may not pay the interest, and you must seek a way to avoid it. If the tenant isn't religious and will forcibly require you to pay, many *poskim* would allow you to do so if you tell him that you aren't giving the excess as an interest payment but to protect yourself.

There are *poskim* that allow an alternate resolution: Share your dilemma with someone you're close with, and tell him that if a friend would pay the tenant, in your stead, the deposit principal plus the owed interest, that would resolve the issue. You may commit to reimburse the hypothetical donor (don't say "you") for the principal, but you can't mention that you will reimburse him for the interest. This way, your friend will pay your debt, but not as your *shaliach* (proxy). You also may not inform the tenant that your friend will be paying the interest on your behalf. Later, you could repay your friend the principal you committed to pay as well as the interest that you didn't (see Sefer Mishnas Ribbis, Perek 1, footnote 16).

Note that you may not repeat this routine with the same

friend, as after he has completed the process once and been reimbursed, were you to approach him again with a similar request it would be akin to asking him directly.