

The Lost Coin

**Is vending machine
change up for grabs?**

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We use vending machines for all kinds of purposes, whether to buy a soda, coffee or snack, or even a newspaper or lottery ticket. Sometimes, a person tries to purchase an item from a vending machine, only to discover that the machine is broken. As he presses the coin return, he may find that he receives his change and the change belonging to the customer before him. Does he have the right keep the lost coins from the previous customer? Does this coin have the status of an *aveida*, a lost object, and therefore he can keep it? It makes sense that the previous customer despaired of retrieving his money, and thus this seems to be a case of *yiush*.

But who acquires the lost coin, who is *koneh* it? Does it belong to the vending machine owner or can the finder keep it?

**Kinyon Keilim derived
from Kinyon Chotzer**

The Gemara in *Bava Basra*, *perek chamishi*, *Hamocheh es HaSefina*, Daf 85B discusses this issue. The Gemara says, “*Omar Rebbe Yochanan, Keilim Shel Adom Koneh Lo Bkol Mokom Sheyesh Lo Rishus Lihanicho.*”

When an object goes into a person’s vessel, that is a *maaseh kinyon*, and he now owns it.

How does this *kinyan keilim* work?

The opinion of the *Nemukei Yosef* is that it works because of *Meshicha* i.e. pulling the vessel which contains the object. This opinion is not accepted in Halacha. The most accepted view is that of the *Ritva*, which can be found in *Avodah Zora*, Daf 71B. The *Ritva* explains that *kinyan kli* works because it is *koneh m’taam chotzer*, it has the same Halachic status as a courtyard.

This rule is found in the laws of *geneva*. The Gemara in *Bava Metziah* teaches that in *Parshas Mishpatim* it says, “*Ki Motze Timotzei B’yado*”. The Gemara says “*B’yado*” refers to *Gagoi, Chatzeiroi and Karfifoi.*”

If a lost object is found in any of these domains owned by the robber, the thief must pay back double. The Gemara says that the *chotzer* is considered a *kinyon*. If the object is in my *chotzer*, it

is in my domain.

Despite the fact that a *kli* is a moveable object, it has the same ruling as a *chotzer*. If the object is in my *kli*, it is in my domain. The owner of the vending machine would acquire the coins through the *kli* which he owns i.e. the vending machine.

In order to be designated as a *kinyon chotzer*, the halacha requires one of two conditions.

1. The *chotzer* must be guarded, a *chotzer hamishtameres*. This is a *chotzer* that is locked in all four directions and is inaccessible. Since there are four walls, anything that is left there is guarded, and one can be sure that the object is contained in that domain. Alternatively,

2. Even without four walls, the *chotzer* is considered guarded, as long as the owner is *omed b'tzida*.

If the owner is standing at the side of the *chotzer*, he is watching over its contents.

How many walls does a kli need?

When it comes to a *kli*, does the vessel need the same requirements for *kinyon* as a *chatzor*? Does the *kli* also need either a *chotzer hamishtameres*, with four walls, or an *omed b'tzida*, with the owner watching over it?

The *Sefer Hamakneh* in *Kuntras Achron* in *Hilchos Kiddushin*, *siman* 30:9, says that the *kinyon*

kli is exactly analogous to *kinyan chotzer*. The vessel either has to be locked, or the

owner has to be standing right next to it.

However, when it comes to the walls that enclose it, a *kli* is different than a *chotzer*.

Four walls can ensure that a *chotzer* is guarded. But a *kli* will still be accessible, even with four walls.

Anyone can stick their hand in the top and take something. In order to make a *kli* as secure as a *chotzer*, you would need six sides, to put a lid on the vessel.

According to the *Sefer Hamakneh*, if the owner is not standing next to the *kli*, it would need to be closed in all directions and not accessible to anyone, in order to have a *din* of *kinyon kli*.

In the vending machine scenario, the machine would have to be closed in all directions, in order to utilize the *kinyon* of *keilim*.

The *Nesivos* brings a tremendous *chiddush* in *Shulchan Aruch*, *Choshen Mishpat*,

siman 200:103. According to the *Nesivos*, every *kinyan kli* is learned out from *kinyan chotzer*, the *din kli* is only a *yalfusa*, it is being learned from *chotzer*, and it does not have to

logically be like a *chotzer*.

The *kli*

needs only to have the dimensions of a *chotzer*, with four walls. It is true that you can still get into it, but as long as it's like a *chotzer*, it has the same *din*.

According to this argument, even if the *kli* only has four walls and it still accessible, the *yalfusa* is so great, it is considered a *chotzer hamishtameres* – a guarded courtyard.

Who is koneh the lost coin?

With regards to the vending machine, if a coin comes out of the coin return, where was it lost, according to halacha?

If the coin was lost inside of the machine, it would be a sufficient *kinyon kli*, even according to the *Makneh* in which case the vending machine owner is the owner of the coin. The finder

removed it by touching the coin return, but it was found from inside the machine. The person who finds the coin after pressing the coin return would have to call the machine owner and let them know that he found the money.

What if a person is just playing around with the machine, and he finds some coins in the change dispenser?

That would involve the *machlokes* between the *Makneh* and the *Nesivos*. According to the *Makneh*, there would not be a *kinyan kli*, because it's not locked in, it's easily accessible. Even though it has *mechitzos*, the walls don't

really work, because you can just push it in and take out the object. But according to the *Nesivos*, it would be a good *kinyan kli*, and the money would belong to the owner of the coin machine.

It is important to note, that even though there are times when you can keep the money you find in a machine, there is no right to bang on

the machine to try to get extra change. Banging or tipping a vending machine is

transgressing the *issur* of *mazik*.