



**BETH DIN of AMERICA**  
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Rabbi Moshe Steinberg, זצ"ל  
*Founding Av Beth Din*

Rabbi Gedalia Dov Schwartz  
*Av Beth Din*

Rabbi Mordechai Willig  
*Assistant Av Beth Din*

Rabbi Jonathan Reiss  
*Chaver Beth Din*

Rabbi Shlomo Weissmann  
*Director*

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חבר בית דין

הרב שלמה ווייסמאן  
מנהל

הרב משה שטיינברג, זצ"ל  
אב בית דין הראשון

הרב גדלי' דוב שווארץ  
אב בית דין

הרב מרדכי וויליג  
סגן אב בית דין

ט' ניסן תשס"ד  
March 29, 2004

### **Pesak Din: Chaya Plaut v. Anshei Troy Synagogue**

The Beth Din of America (the "Beth Din"), having been chosen by the parties as arbitrators in an arbitration agreement (attached hereto as Exhibit A) between Chaya Plaut, as plaintiff, and Anshei Troy Synagogue (the "Synagogue"), as defendant, to decide the matters described in the Arbitration Agreement, having given proper notice of the time and the place of the meeting, and having given said matters due consideration, and having heard all parties testify as to the facts of said dispute and differences, does decide as follows:

Mrs. Chaya Plaut brought this case to the Beth Din seeking \$10,600, reflecting one year of lost wages. Her claim was that notice of the termination of her part-time employment by the Synagogue, communicated to her on May 27, 2003, came too late for her to obtain a replacement position for the 2003-04 school year. The Synagogue was represented at the Din Torah by Paul Katz, the Synagogue's president, and Sam Gilder, the former treasurer.

The material facts of the case are as follows:

Pursuant to a written contract dated August 20, 2001, Mrs. Plaut was hired by the Synagogue to serve as a Talmud Torah teacher during the 2001-2002 school year for 5.5 hours/week, for a total salary of \$10,500. The contract was signed by Mrs. Plaut and Rabbi Shlomo Strill, who was until recently the rabbi of the Synagogue.

Mrs. Plaut performed her duties satisfactorily and her contract was renewed orally for the 2002-2003 academic year, with a \$100 raise, for a total of \$10,600. Mrs. Plaut states that Rabbi Strill informed her of the contract renewal in March or April of 2002, with the financial details worked out in a telephone conversation with Mr. Sam Gilder in the early summer of 2002. According to Mrs. Plaut, Rabbi Strill expressed great satisfaction with her work and conveyed the sense that Mrs. Plaut would have long-term employment with the Synagogue. Mr. Gilder is unaware of any such conversation between Mrs. Plaut and Rabbi Strill, and he thought that the first conversation with Mrs. Plaut about the renewal of her contract was his early summer conversation with her. In any case, Mrs. Plaut satisfactorily performed her duties during her second year at the Synagogue, ending in June 2003.

Rabbi Strill was not called to the Beth Din by either party and was thus unavailable for consultation. It is clear that the Synagogue lay leaders delegated to Rabbi Strill supervision of Mrs. Plaut, and that Rabbi Strill's illness, which began during Mrs. Plaut's first year at the

Synagogue, impeded communication with both the Synagogue's lay leadership and with Mrs. Plaut.

In early 2003, Rabbi Strill announced that he would be leaving the Synagogue. According to Mr. Katz and Mr. Gilder, in March 2003 the Synagogue's leadership developed a job description to be used in their search for a new rabbi. The job description stated a preference that the new rabbi also teach the Hebrew school classes so that the Synagogue need not pay a separate salary for a Hebrew school teacher. Neither Mr. Katz nor Mr. Gilder informed Mrs. Plaut either that Rabbi Strill had resigned or that they hoped the new rabbi would take over Mrs. Plaut's position, leaving her with no role at the Synagogue. Mr. Katz and Mr. Gilder say that they assumed Rabbi Strill had informed Mrs. Plaut directly of his resignation, which Mrs. Plaut denies.

In late May 2003, the Synagogue reached oral agreement with a new rabbi who agreed to teach the Hebrew school classes. On May 27, 2003, Mr. Gilder telephoned Mrs. Plaut to say that she would not be rehired for the 2003-2004 school year. Mrs. Plaut states that she immediately began searching for a new position; however, despite a diligent search, she was unable to find an alternative position for 2003-04 because religious school positions are generally filled long before June. The Synagogue, while not expert in the hiring cycles for schools, believes that Mrs. Plaut was given adequate time to find a new position.

Mrs. Plaut now seeks full payment of her salary from the Synagogue, as if she had taught there throughout 2003-04.

### Findings and Order

All parties acted in good faith in the events that gave rise to this Din Torah. Mrs. Plaut's termination was not for cause, but rather due to the Synagogue's decision, for financial reasons, to consolidate the rabbi and teacher positions.

Given the academic calendar and hiring schedules of most religious schools, we find that Mrs. Plaut was not given sufficiently early notice to enable her to find a replacement position for 2003-04. While at times positions do open over the summer, this is the exception. In fact, Mrs. Plaut states that she searched diligently for a new position (this is not disputed by the Synagogue) and was unable to find new employment. As an experienced educator with part-time positions in other religious schools, Mrs. Plaut would likely have found an alternative position if the Synagogue had informed her of the possible termination of her position when the new rabbi's job description was circulated.

However, we find that the Synagogue is not solely responsible for Mrs. Plaut's being without a replacement position for 2003-04. While Mrs. Plaut believed that her job at the Synagogue was secure, she had only two years of tenure at the Synagogue, a year-to-year contract (the second year of which was oral, rather than written), and an ill/unavailable supervisor. In this context, she should have proactively sought to clarify her employment status for the following year earlier in 2003. This is particularly so since she states that the renewal of her contract for 2002-03 took place in March/April of 2002.

An employee who has been hired and subsequently terminated without adequate notice is not entitled to recover full salary. Instead the standard applied is *ke-po'el batel*, which essentially means the amount that most employees hired for a job would accept in return for canceling the job and enabling them to remain at leisure. While there are various opinions as to the calculation of *po'el batel*, we apply here the opinion of the Taz (see Shulchan Arukh, Choshen Mishpat, 333) that the standard translates into 50% of salary.

As applied in this case, *ke-po'el batel* equals \$5,300, half of Mrs. Plaut's full salary of \$10,600. Since, as explained above, we find that Mrs. Plaut shares responsibility for her being without a replacement position, we rule that the *ke-po'el batel* payment should be reduced to \$4,000.

It is thus ordered that the Synagogue pay Mrs. Plaut \$4,000 in satisfaction of her claim.

Both parties are enjoined from making any public disclosure of this dispute or decision. The parties shall not speak disparagingly of each other. Penalties for the violation of any of these clauses shall be set by the Beth Din of America, in accordance with the rules and the Arbitration Agreement. Any request for modification of this award by the arbitration panel shall be in accordance with the rules and procedures of the Beth Din of America and the Arbitration Agreement. Any provision of this decision may be modified with the consent of both parties. All of the provision of this order shall take effect immediately.

In Witness Whereof, we hereby sign and affirm this Order as of the date written above.

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Rabbi AA  
Dayan

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Rabbi BB  
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CC, Esq.  
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