

## AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

**Journalnummer:** 2016-0250

**Klageren:** XX  
København K

**Indklagede:** Metroselskabet I/S v/Metro Service A/S  
**CVRnummer:** 21 26 38 34

**Klagen vedrører:** Kontrolafgift på 750 kr. grundet manglende zone på tillægsbillet.

**Parternes krav:** Klageren ønsker kontrolafgiften annulleret  
Indklagede fastholder denne

**Ankenævnets sammensætning:** Nævnensformand, landsdommer Tine Vuust  
Asta Ostrowski  
Torben Steenberg  
Bjarne Lindberg Bak  
Alice Stærdahl Andersen

Ankenævnet for Bus, Tog og Metro har på sit møde den 7. marts 2017 truffet følgende:

### **AFGØRELSE**

Metroselskabet I/S v/Metro Service A/S er berettiget til at opretholde kravet om klagerens betaling af kontrolafgiften på 750 kr.

Klageren skal betale beløbet til Metroselskabet I/S v/Metro Service A/S, som sender et girokort til klageren.

Da klageren ikke har fået medhold i klagen, tilbagebetales klagegebyret ikke, jf. ankenævnets vedtægter § 24, stk. 2, modsætningsvist.

- oOo -

Hver af parterne kan anlægge sag ved domstolene om de forhold, som klagen har vedrørt.

Klageren henvises til at søge yderligere oplysning om eventuel bistand i forbindelse med sagsanlæg på [www.domstol.dk](http://www.domstol.dk), [www.advokatsamfundet.dk](http://www.advokatsamfundet.dk) og /eller eget forsikringssselskab om eventuel forsikringsretshjælp.

## SAGENS OMSTÆNDIGHEDER:

Klageren, som er engelsktalende, rejste den 4. oktober 2016 med metroen. Som rejsehjemmel medbragte han et periodekort gyldigt i zonerne 01 og 02 samt en tillægsbillet på én zone, som han havde købt i billetautomaten inden afrejsen. Det var i billetautomaten ikke muligt at købe en tillægsbillet til mere end én zone, hvorfor han tænkte, at dette var tilstrækkeligt.

Efter metroen havde forladt Kastrup st., var der kontrol af klagerens rejsehjemmel i zone 04, hvor han fremviste sit periodekort samt sin tillægsbillet på én zone. Klageren blev herefter klokken 17:25 pålagt en kontrolafgift på 750 kr., da han manglede én zone.

Klageren anmodede den 12. oktober 2016 Metro Service om annullering af kontrolafgiften og anførte til støtte herfor følgende:

" Earligere today (4 Oct) I bought a supplement ticket to top up my minthly travel card to take the metro from Christianshavn to the Airport. Picture attached for your futher information. I was advised at Christianshavn to buy the supplement from the machine rather than use my rejsekort as I would have the monthly travel card. I proceeded to purchase a supplement ticket, only to be stopped on the train by a member of your straff and told I should have bought two supplement tickets (!!!) for my one way adult ride to the airport. I am absolutely livid as to having followed advice which was incorrect having learned that I should have purchased two (!!!) paper supplement tickets for myself for a one way journey. This is absolutely confusing, your ticketing system needs serios revising ans is not commuter friendly at all. I should have used my rejsekort instead to avoid this absolutely silly situation of now being presented with a fine of DKK 750!! (kontrolafgift nr. XXX) Having purchased a ticket but actually being punished for it. I appreciate your time to look into this matter and cancel this time. "

Klageren vedlagde desuden et foto af sit periodekort, tillægsbillet og kontrolafgift.

Metro Service fastholdt den 13. oktober 2016 kontrolafgiften med henvisning til selvbetjeningsprincippet, samt at klagerens periodekort ikke var gyldigt i zone 03 og 04, hvorfor han manglende én zone, trods sit køb af en tillægsbillet på én zone.

Klageren anmodede igen den 18. oktober 2016 Metro Service om annullering af kontrolafgiften og anførte følgende:

"I recently received a fine while travelling on a metro train. I relocated from Singapore to Copenhagen, and have only been in Denmark for a new months, and do not often catch the train outside zone 2. Because of this, I did not realise the ticket I had purchased was not valid. The conductor suggested that I should write to the Metro Kundeservice as it may be possible for the fine to be withdrawn. Hereafter a summary of the matter xxx. FD refers to the passenger, which is me:

4. October 2016 at 17:15 hrs:

- FD to travel one-way from Christianshavn metro station to Kastrup lufthavn metro station
- FD in possession of a valid monthly travel card for zone 1 and 2, as well as a charged rejsekort ready to use.

- As the airport is in zone 4, and FD has only a monthly travel card for zone 1 and 2, FD understood that a paper-based supplement ticket would need to be bought to make up for the difference in fare
- Advised to buy the paper-supplement from the machine rather than use my rejsekort as FD would have the monthly travel card.
- FD proceeded to purchase a paper supplement ticket from ticket machine in Christianshavn station. FD noted only one type of supplement ticket can be purchased, which FD purchased in good faith.
- FGD boarded Metro from Christianshavn to airport
- On-board ticket inspection just before pulling into the airport. FD presented both monthly travel card and the supplement ticket
- Inspector informed FD that not one but two individual paper-based supplement tickets would need to be purchased.
- Inspector informed FD that one individual paper-based ticket makes only up for one zone, something that is not stated during the ticket purchasing process on the ticket machines.
- Inspector translated the Danish text shown on the ticket into English, and explained to FD that going forward two individual supplement tickets and payments are required when purchasing a supplement ticket for two additional zones, and advised FD to write to Kundeservice to have the fine withdrawn."

Metro service fastholdt igen den 20. oktober 2016 kontrolafgiften med samme begrundelse som tidligere.

#### **ANKENÆVNETS BEGRUNDELSE:**

Klageren kunne ved kontrollen i metroen den 4. oktober 2016 i zone 04 ikke forevise gyldig rejsehjemmel, da hans periodekort kun var gyldig i zone 01 og 02, og da han kun havde købt én tillægsbillet til én zone. Kontrolafgiften blev hermed pålagt med rette.

Det kan ikke føre til et andet resultat, at tillægsbillet kun udstedes til én zone ad gangen.

Det bør dog være bedre oplyst på engelsk i købsflow'et ved køb af tilkøbsbilletter, at passagerer der skal tilkøbe mere end én zone, skal købe en almindelig zone billet, i dette tilfælde på to zoner eller alternativt to tillægsbilletter på hver én zone, uanset hvad Metro Service har anført i sit svar til ankenævnet om, at man ikke kan forevise to tillægsbilletter som tilkøb til et periodekort.

Ankenævnet bemærker, at pligten til at betale kontrolafgift ikke er betinget af, om passageren bevidst har forsøgt at unddrage sig betaling for rejsen. Da dette er et område med stor mulighed for omgåelse af reglerne om at have billet til de korrekte zoner, hvis det accepteres, at der kan tilkøbes færre zoner, end rejsen reelt omfatter, finder ankenævnet, at der ikke har foreligget sådanne særlige omstændigheder, at klageren skal fritages for kontrolafgiften.

#### **RETSGRUNDLAG:**

Ifølge § 2, stk. 1, jf. § 3 nr. 3 i lovbekendtgørelse nr. 686 af 27. maj 2015 om lov om jernbaner, gælder loven også for metroen. Af § 14 stk. 1, fremgår jernbanevirksomhedernes adgang til at opkræve kontrolafgift og ekspeditionsgebyr for passagerer, der ikke foreviser gyldig rejsehjemmel (billetter og kort). Jf. § 14 stk. 4, fastsætter transportministeren nærmere regler om jernbanevirksomhedens adgang til at opkræve kontrolafgift og ekspeditionsgebyr, jf. stk. 1.

I henhold til § 4 i bekendtgørelse nr.1132 om kontrolafgifter af 08. september 2010, fastsætter jernbanevirksomheden bestemmelser om kontrolafgift i forretningsbetingelserne.

Ifølge de dagældende fælles rejseregler for trafikvirksomhederne i Hovedstadsområdet, hvori hjemmelen til udstedelse af kontrolafgift fremgår, anføres det således bl.a., at passageren skal have gyldig rejsehjemmel til hele rejsen, og at denne skal kunne vises frem for kontrolpersonalet under hele rejsen, ved udstigning, i metroen indtil metroens område forlades, og i S-tog og lokalbanetog indtil perronen forlades.

Passagerer, der ikke på forlangende viser gyldig billet eller kort, herunder korrekt ind-checket rejsekort, skal betale en kontrolafgift på 750 kr.

## **PARTERNES ARGUMENTER OVER FOR ANKENÆVNET:**

### **Klageren anfører følgende:**

"I recently received a fine while travelling on a metro train. I relocated from Singapore to Copenhagen, and have only been in Denmark for a few months, and do not often catch the train outside zone 2. Because of this and being new to Denmark, I did not realise the supplement ticket I had purchased was not sufficient. The conductor suggested that I should write to the Metro Kundenservice as it may be possible for the fine to be withdrawn. Hereafter a summary of the matter 00675347. FD refers to the passenger, which is me:

4. October 2016 at 17:15 hrs:

FD to travel one-way from Christianshavn metro station to Kastrup lufthavn metro station

FD in possession of a valid monthly travel card for zone 1 and 2, as well as a charged rejsekort ready to use.

As the airport is in zone 4, and FD has only a monthly travel card for zone 1 and 2, FD understood that a paper-based supplement ticket would need to be bought to make up for the difference in fare

Advised to buy the paper-supplement from the machine rather than use my rejsekort as FD would have the monthly travel card.

FD proceeded to purchase a paper supplement ticket from ticket machine in Christianshavn station. FD noted only one type of supplement ticket can be purchased, which FD purchased in good faith.

FD boarded Metro from Christianshavn to airport

On-board ticket inspection just before pulling into the airport. FD presented both monthly travel card and the supplement ticket

Inspector informed FD that not one but two individual paper-based supplement tickets would need to be purchased.

Inspector informed FD that one individual paper-based ticket makes only up for one zone, something that is not stated during the ticket purchasing process on the ticket machines.

Inspector translated the Danish text shown on the ticket into English, and explained to FD that going forward two individual supplement tickets and payments are required when purchasing a supplement ticket for two additional zones, and advised FD to write to Kundenservice to have the fine withdrawn.

Having followed instructions of the inspector, and having contacted Metro Kundenservice to explain my circumstances, also being new to the country, and the fact that I purchased a supplement ticket in good faith, I am very surprised that the fine of 750 kr,- or parts thereof cannot be waived. I have bought the supplement ticket in good faith, also wanting to get familiar with your system and

ticket machines, instead of using my fully charged rejsekort, which I also had in my wallet and could have used instead. I feel treated unfairly, and do not believe that Kundeservice have made any attempts to further investigate my case. No follow-up emails, further queries or phone calls. I do not understand that Kundeservice, did not even acknowledge the fact that I made efforts to purchase the correct supplement ticket to my best understanding and ability, and that I was genuinely under the impression that I had purchased the correct supplement ticket for my journey from Christianshavn to the airport. Hence, I am making an official complaint and kindly request to waive the fine issued to me, and suggest Kundeservice improving the customer service experience.

### **Indklagede anfører følgende:**

” Like all other means of public transportation in the greater Copenhagen area, the Copenhagen Metro employs a self-service system, where the passenger is responsible for being in possession of a valid ticket, for the entire journey, before boarding the train. Passengers must be able to present a valid ticket on demand to the ticket inspectors.

In cases where passengers are not able to present a valid ticket, a fare evasion ticket will be issued, which is currently DKK 750, - for adults. This basic rule is a prerequisite for the self-service system that applies to travel by public transport. The above mentioned information is available on [www.m.dk](http://www.m.dk) as well as on our information boards which are placed at every station. The information boards contain travel information in both English and Danish.

Our Metro staff is trained to issue fare evasion tickets to all customers without a valid ticket. They do not distinguish between an intentional or unintentional mistake. They only check the validity of the ticket. It is unfortunately not sufficient to enquire with a member of the public, regarding ticket information, as they may not be adequately informed concerning the journey the passenger wishes to undertake. In order to ensure correct travel information passengers contact our Metro staff either in person or via call points on the station or in the Metro trains.

Call points can be found on all of our ticket vending machines, as well as yellow call points in several other places in every one of our stations. These call points can be used if the passenger requires assistance or guidance. The call point will connect the passenger directly to an operator in our control tower, which is manned 24 hours a day.

Below is a close-up of the information board where you can read about the zone principle and on the zone map see which zones you pass on your journey.

The map clearly shows that one passes through the zones 01, 03 and 04 when traveling from Christianshavn station to Lufthavnen station.

The text on the information board also explains how to proceed if you, as the complainant in this case, are in possession of a season card.

Københavns Metro  
The Copenhagen Metro



**Ticket information**  
 Tickets are available from the ticket vending machines for journeys within Greater Copenhagen and for destinations in Denmark and Scania (Skåne) in Sweden. Major Credit cards and Danish coins can be used. Please read more about different types of tickets below and on [www.m.dk](http://www.m.dk).

**Tickets**  
 A valid ticket allows you to use bus, other trains and Metro.

**Fare Zones**  
 Greater Copenhagen area is divided into zones. The longest trip with the Metro (from Vanløse to Copenhagen Airport) costs 3 zones.

**How to buy a ticket:**

- The red zone on the map shows where you are now
- Find the destination zone
- Check the chart to find the number of fare zones, your ticket must be valid for
- The most expensive fare zone decides your fare
- The minimum fare is a 2-zone ticket per person

Do you use season card, then the card must cover the zones (marked with white) that you are bypassing or travelling in.



The ticket machines and information boards at Christianshavn station:



In this case, the complainant has a season card, which is valid for the zones 01 and 02. Zone 02 will not be of any use if you take the Metro from Christianshavn station to Lufthavnen station. To get from Christianshavn station to Lufthavnen you must have a valid ticket for zones 01, 03 and 04. Since the complainant only purchased a supplementary ticket for a single zone, he had no valid ticket when inspected in zone 04.

The complainant must have misunderstood the steward in the control situation. You should not have 2 supplementary tickets for the actual journey, but you must have an additional ticket valid for 2 zones if you only have the zones 01 and 02 in your season card.

At Metro, we treat everyone equally, the requirement for a valid ticket goes for all. No distinction is made, all travels on the same terms. There is thus no special rules for pensioners, children, tourists or newly arrived. We relate not to whether you have been in good faith, but relate solely to whether there has been presented a valid ticket.

The amount of 750 kroner cannot be graded but is a flat rate for an adult without a valid ticket, agreed between the transportation companies in the metropolitan area.

Considering the above, we maintain our claim on the fare evasion ticket of 750,- kroner .

In all kindness, we will make the complainant aware that it is not possible to use an ordinary rejsekort as a supplementary ticket, unless you want to pay the entire journey on the rejsekort or get off the train along the way - before entering the zone, which is not covered by the season card."

På ankenævnets vegne

Tine Vuust  
Nævnformand