

AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

Journalnummer: 2015-0056

Klageren: XX
Tyskland

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

Klagen vedrører: Kontrolafgift på 750 kr. grundet manglende zoner.

**Ankenævnets
sammensætning:** Nævnensformand, landsdommer Tine Vuust
Bjarne Lindberg Bak
Stefan Krehbiel
Asta Ostrowski
Torben Steenberg

SAGSFREMSTILLING:

Klageren reklameret til indklagede: Den 16. december 2015

Klagegebyr modtaget i ankenævnet: Den 5. marts 2015

Sagens omstændigheder:

Klageren, som er tysker, var den 10. december 2014 for første gang i København, hvor hun rejste med metroen fra Kongens Nytorv i zone 01 til Lufthavnen st. i zone 04. Som rejsehjemmel medbragte hun en 2-zoners billet, som hun inden påstigning på metroen havde købt i billetautomaten.

Efter metroen havde forladt Femøren st. var der i zone 04 kontrol af klagerens rejsehjemmel, hvor hun blev pålagt en kontrolafgift på 750 kr. for manglende zone.

Klageren kontaktede med hjælp fra Wonderful Copenhagen den 16. december 2015 Metro Services kommunikationsafdeling og anmodede om annullering af kontrolafgiften. Klageren anførte følgende:

"as you know meanwhile (...), I had some trouble with one of your colleagues, because of my mistake with the metro ticket from "Kongens Nytorv" to the airport (...). Unfortunately I forgot to note his name, and I also missed to take a picture of the form I had to sign, but I think you know which form it dealt with. As mentionend before – in the meantime I understood that I did a mistake of chosing two zones instead of three! But believe me or not ..., this was not with purpose! Thus if I

wanted to betray your organisation, then I wouldn't have bought any ticket at all! But I only found a rough graphics with the zones in different colours (the ticket machine didn't offer to chose the destination – which would prevent any misunderstanding!), and so I thought I have to buy two zones, because of going to the second zone (counted from my starting point). Therefore I have no problem to pay the difference between the two rates (for two and three zones) – let me know the amount! But the behavior of your inspector is not acceptable. I explained very friendly my error and demonstrated my willingness to find a prompt solution, but he immediately took my identity card (with the announcement that I will get a request to pay the penalty fee by mail) and forced my to sign this form I don't understand – although he already had all my contact details because of the identity card! So it would be kind of you to stop this process of request of payment – and that we find a different solution!"

Metros kommunikationsafdeling skrev den 17. december følgende til klageren:

"I fully understand your frustration, and I believe that you didn't do anything wrong on purpose. I am sure you also understand that I am not in a position to break the rules. This would also be very bad for many travelers, if the system depended on a personal judgment from different persons sites inclusive me. Our Stewards are trained to deliver service, and if this was not the case this time, we take care of this. I will send your input and comments to our Customer Service for further investigation and ensure you get a reply."

Den 3. februar 2015 fremsendte Metro Service en rykkerskrivelse med et rykkergebyr på 100 kr.

Den 6. februar kontaktede klageren igen Metros kommunikationsafdeling, og anførte denne gang følgende:

"After this long time since we „spoke", I just expected at best to get a short information (or rather excuse!) from your Customer Service ..., but nothing happened. Instead of that, today I got this invoice (see attached) – and to be honest: I'm not amused! _ Obviously your colleagues (to whom you wanted to send it) ignored all my complaints and arguments concerning this poor incident with one of your inspectors – and regardless sent out this invoice about this exceeding penalty fee. And worse: I should pay any 100 DK in addition!??? That's rather impudent ..., particularly this sheet is written only in Danish, so I couldn't understand again!! To sum up what happened in December, when I came the first time to Denmark and Copenhagen within a short individual press trip:

- *First of all: The Metro ticket machines are quite difficult to understand and to handle (they didn't offer to chose the destination – which would prevent any misunderstanding! Or there better could be a big sign "to the airport please pay for three zones" etc.), so to buy the wrong ticket (two zones instead of three) was only a little mistake, based on: being the first time and for only few hours in Copenhagen and finding no help to explain!*
- *I didn't do anything wrong with purpose! Believe me or not: If I wanted to betray your company, I wouldn't have bought any ticket at all!*
- *When your inspector (by the way: he didn't mention or write down his name!) addressed to me at my final destination (airport), I was full of confidence, because I wasn't aware of having done anything wrong. So I gave him my identity card, because I thought, he only wanted to check, that I am a foreigner. When he explained to me my mistake I demon-*

strated my willingness to find a prompt solution (e.g. to pay the difference between the the two rates immediately), but he kept my identity card to force me to sign a form which was written only in Danish, so I couldn't understand what I was signing!

- *This rude behavior of your inspector is not acceptable! I never experienced anything like that – and as a journalist and photographer I travel a lot – not even in less democratic countries ...! I think this is not an appropriate manner to handle with tourists, traveling to denmark for the first time!!*

So, as I mentioned before, I am up to pay the difference between the two rates (for two and three zones; let me know this modest amount!), but please initiate that this invoice (see attached) will be cancelled!

If you can't decide in such a concern, please let me know who in your company is responsible. I would be happy to speak to someone else who shares a common perception of (foreign) customer oriented service!!"

Den 13. februar 2015 rykkede klageren Metro Service for svar på hendes henvendelsen dateret 6. februar 2015.

Samme dag svarede Metros kommunikationsafdeling følgende til klageren:

"As I told you, I am not in a position to break any rules and have again passed on your mail to Customer Service for reply."

Samme dag skrev klageren følgende til Metros kommunikationsafdeling:

*"but „Customer Service" didn't contact me until now!!
So please could you give me a name and a mail address and perhaps a phone number, too, so that I can contact this guy (or one of these guys at "Customer Service") directly!? I doesn't improve my perception of Copenhagen resp. the Metro company if there is no feedback – besides of an disproportional payment request (written only in Danish)!!"*

Samme dag skrev Metro Service følgende til klageren:

*"Thank you for your mail.
Due to a misunderstanding, your inquiry has not been replied to yet. We will look into your inquiry very soon, and I'll make sure you receive a reply during next week at the latest."*

Den 20. februar 2015 fastholdt Metro Service kontrolafgiften, men frafaldt rykkergebyret, og anførte følgende:

"Thank you for you e-mails regarding your visit to Copenhagen in December, which we have received via Wonderful Copenhagen and our Communications Manager.

I am very sorry to hear, that your experience with our staff did not meet your expectations. You mention among others, that you were forced to sign a form, written in Danish. The form you were asked to sign, is a form stating that you have received a fine – not that you accept the fine. The staff should kindly ask you to fill it out and sign it, but this is not mandatory, and you should defi-

nitely be allowed not to fill it out. Nor should the staff withhold your Identity card, until the form has been filled out. The form has always been in Danish only, but we will – based on your mail – reconsider if information on the slip should be written in English too.

I have made sure, that your inquiry has been sent to the responsible manager, for further internal handling. 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 before boarding the train. It is your responsibility to ensure that your ticket or clip card is correctly stamped and that it is valid for the entire journey. Furthermore, you must be able to show the ticket or card in case of a ticket inspection. I am sorry to hear, that you find our zone information unclear. Our zone-maps have been upgraded in 2013, and with coloured zone maps onboard trains, on platforms and on all clip-card validators, we however believe that sufficient information are provided. Furthermore all trains and platforms are equipped with call-points, and information about them is available on the infoboards, in both Danish and English.

Despite your experience, we will still maintain our claim towards you, for paying the fine of 750 DKK. We have removed the reminder fee, despite the fact, that your complaint was not sent to us as described on the fine, but via Wonderful Copenhagen.

Further complaints can be directed to the complaint board: Ankenævnet for Bus, Tog og Metro - www.abtm.dk (information, protocols and previous rulings can also be found on the above mentioned website). If we have not had written confirmation of a further complaint from Ankenævnet within three weeks from today, or received payment from you, our normal reminder procedure will continue.”

PARTERNES KRAV OG BEGRUNDELSER OVER FOR ANKENÆVNET:

Klageren: Ønsker kontrolafgiften annulleret og har til støtte herfor gjort følgende gældende:

“On December 10, 2014, I came for the first time to Denmark and Copenhagen, within a short press trip. The Metro ticket machines seemed quite difficult to understand and to handle, because here in Frankfurt/Main we are used to choose the destination, so that the right amount to pay will be displayed and any possible misunderstanding can be prevented. Or even better: For destinations which are often choosed like “station” or “airport” there are special buttons. So in Copenhagen I missed a sign with a hint like “to the city / airport please pay for three zones” etc. Other tourists next to me were confused, too ..., and unfortunately I bought the wrong ticket (two zones instead of three for the distance between the airport and the city), because I didn’t understand the system of the colored zones, but I couldn’t find any assistance or help to explain. ... and, as I mentioned before: being the first time and for only few hours in Copenhagen everything was a little bit stressful.

Call me stupid or whatever, but quite simply it happened ... And be sure: I didn’t do anything wrong with purpose! Believe me or not: If I wanted to betray the Metro company, I wouldn’t have bought any ticket at all!!

Therefore when the Metro inspector addressed to me, asking if I only have this ticket, I affirmed – not aware that I have done a mistake. I explained to him that I am German and the first time in

Denmark etc., and I supposed him to help me. So I was full of confidence and followed him outdoor, handing out my identity card, because I thought, he only wanted to check that I am a foreigner (by the way: He didn't mention or write down his name!)

When he explained to me my ticket mistake I demonstrated my willingness to find a prompt solution so I suggested to pay the difference between the amounts for two and for three zones immediately. But he gave me a form which was written only in Danish and which I should sign. I refused this, because I didn't understand it, but he forced me to do so – otherwise he wouldn't have given back my identity card! And then he mentioned that – with this signature – I received a penalty fee of 750 DK!

To be honest: I was shocked twice! On the one hand because of this huge amount, but especially because of this rude behavior of this inspector! This is absolutely not acceptable, and I never and nowhere experienced anything like that! I think this is not an appropriate manner to handle with customers – especially tourists, traveling to Denmark for the first time!!

After my return to Germany I addressed to the press officer of the Metro company (which is usually the first contact person for journalists like me), and she forwarded my complaint to the Customer Service Relations Manager. In his answer he wrote: "I am very sorry to hear, that your experience with our staff did not meet your expectations. ... The staff should kindly ask you to fill it out and sign it, but this is not mandatory, and you should definitely be allowed not to fill it out. Nor should the staff withhold your Identity card, until the form has been filled out. The form has always been in Danish only, but we will – based on your mail – reconsider if information on the slip should be written in English too. I have made sure, that your inquiry has been sent to the responsible manager, for further internal handling."

You can imagine, that for me this answer was not satisfying. Because it really happened to me – even though it actually should not happen according to the guidelines of Metro Customer Relations!? It seems to me that this inspector exploited my situation as a foreigner, not able to speak the national language, and that he exceeded his authorities.

I understand by now that I took the wrong ticket (by mistake – not on purpose!), but I can't accept this severe penalty (conjoined with this huge penalty fee) against the background of the whole situation what happened in December!

So my complaint essentially refers to the behavior of this inspector! ... and that this inappropriate handling of customers is actually not considered by the Metro company! Worse again: At February 3rd 2015 they send me an invoice (see attached) – automatically including a reminder fee of 100 DK so that I should pay 850 DK (instead of 750 DK)!

To sum up:

Prior I complain about this practice of handling a (foreign) customer, being forced to sign a form which could not be understood! So I assumed that the Metro company has to consider this inappropriate behavior of their staff in this manner that they resign their claim and cancel the invoice because of fairness! ... and in terms of real "customer relation service"!

So I'm looking forward to get a favorable feedback from you!"

Indklagede: indklagede fastholder fortsat kravet om betaling og har yderligere anført følgende:

“As other means of public transportation in the Greater Copenhagen area, the Metro is a self-service system, where it is the responsibility of the passenger to ensure holding a valid ticket, and being able to present it upon request.

In cases where a valid ticket cannot be presented upon request, the passenger must accept a fine, which currently is 750 DKK. This basic rule is a premise for the self-service system used in the Metro. This information can be found in the common travel regulations found on www.m.dk as well as on the Information walls on all stations. The Information walls are all in both Danish and English language.

In the case in question the complainant did not have sufficiently zones on her ticket, when inspected on-board the metro. In accordance with the travel regulations, a fine was issued. The complaint includes several complaint points, which all have been addressed in our reply dated 20.02.2015. Among others the complainant claims that there is a lack of information available, in order to purchase the right number of zones. We would like to stress, that our zone-maps have been upgraded in 2013, and with colored zone maps onboard trains, on platforms and on all clip-card validators, we are of the opinion that sufficient information are provided. Furthermore all trains and platforms are equipped with call-points, and information about them is available on the info boards, in both Danish and English.

At the information boards, among others, the following information can be obtained:



Alle zoner 2 timer 45 min 2 timer

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.

Tickets

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

Fare Zones

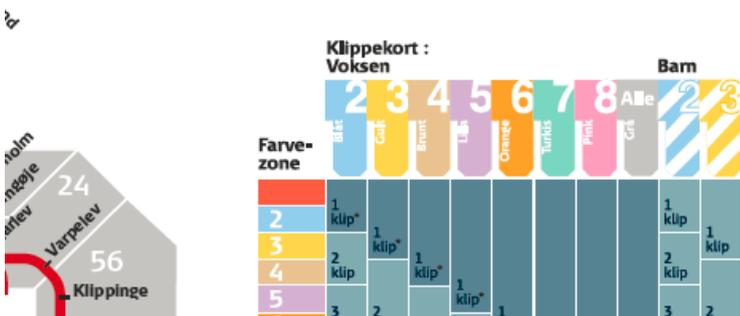
Greater Copenhagen area is divided into zones. The longest trip with the Metro (from Vanløse to Copenhagen Airport) costs 3 zones.

How to buy a ticket:

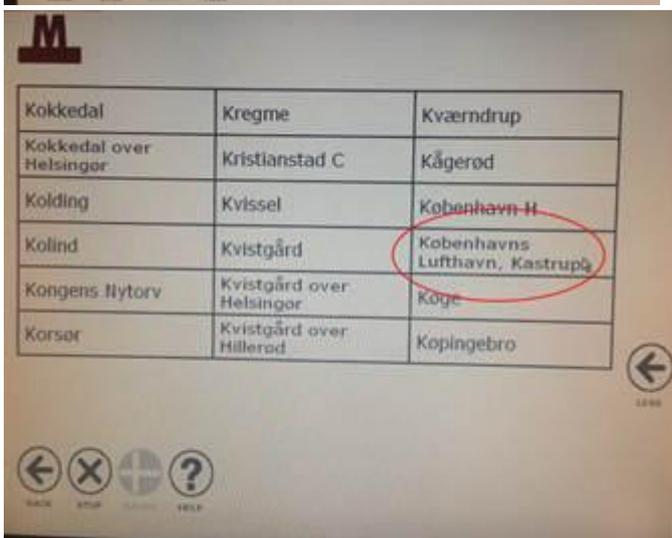
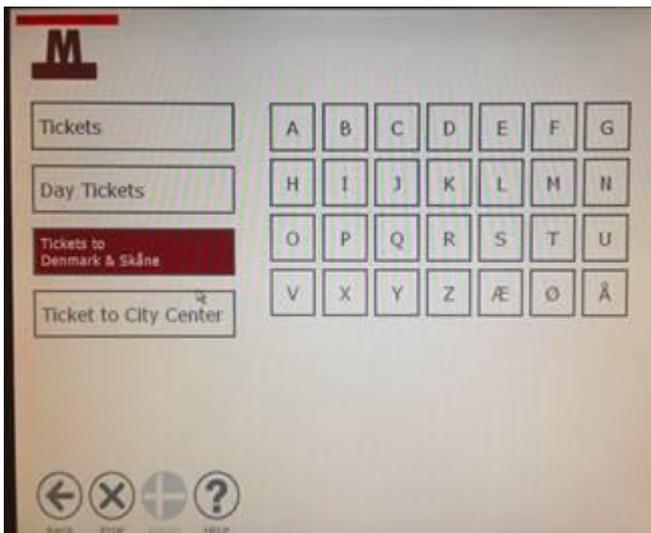
- The red zone on the map shows where you are now
- Find the destination zone
- Check the chart to find the number of fare zones, your ticket must be valid for
- The most expensive fare zone decides your fare
- The minimum fare is a 2-zone ticket per person

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

Validity	Tickets	10-trip travel cards
2 zones	1 hr	1 hr
3 zones	1 hr 15 min	1 hr
4 zones	1 hr 30 min	1 hr 30 min
5 zones	1 hr 45 min	1 hr 30 min
6 zones	2 hrs	1 hr 30 min
7 zones	2 hrs 15 min	2 hrs
8 zones	2 hrs 30 min	2 hrs
All zones	2 hrs 45 min	2 hrs



The complainant also claims, that "the ticket machine didn't offer to choose the destination – which would prevent any misunderstanding". This is NOT correct, as the Ticket vending machines all offer either to choose number of zones needed or chose the destination (station name). Please see the examples below:



“

Til dette har klageren anført:

“Unfortunately no one refers to the actual core of my complaint!! As I have already described quite detailed in my email from March 4th, my complaint is primarily directed against the behavior of the Metro inspector and the inappropriate “treatment” I have experienced!!

Therefore I summarize again:

One thing first: In the meantime, I understood my fault – which happened by mistake! Because you can be sure: If I wanted to betray the Metro company, I wouldn't have bought any ticket at all!!

I was full of confidence towards the inspector and handed out my identity card (because I thought, he only wanted to check that I am a foreigner) – and now – to make matters worse – I have to notice (according to your attachments), that he even made some pictures of my identity card, without mentioning or asking!!!

Moreover: He didn't mention or write down HIS name!

He gave me a form which was written only in Danish and which I should sign. I refused this, because I didn't understand it, but he forced me to do so – otherwise he wouldn't have given back my identity card! And then he mentioned that – with this signature – I have agreed to receive a penalty fee of 750 DK!

This rude behavior of the officer who seemed to exploit my situation as a foreigner (yet not aware of having done anything wrong) is absolutely not acceptable, and I never and nowhere experienced anything like that!

Customer Service Relations Manager later wrote: *"I am very sorry to hear, that your experience with our staff did not meet your expectations. ... The staff should kindly ask you to fill it out and sign it, but this is not mandatory, and you should definitely be allowed not to fill it out. Nor should the staff withhold your Identity card, until the form has been filled out. The form has always been in Danish only, but we will – based on your mail – reconsider if information on the slip should be written in English too. I have made sure, that your inquiry has been sent to the responsible manager, for further internal handling."*

But this really happened to ME – even though it actually should not happen according to the guidelines of Metro Customer Relations ...!

So, again, my complaint essentially refers to the behavior of this inspector! ... and that this inappropriate handling of customers is actually not considered by the Metro company so far! Worse again: At February 3rd 2015 they send me their first invoice – automatically including a reminder (?) fee of 100 DK so that I should pay 850 DK (instead of 750 DK)!

So I assumed that the Metro company and the Appeal Board (!) have to consider this inappropriate behavior of their staff in this manner that they resign their claim and cancel the invoice because of fairness! ... and in terms of real "customer relation service"!"

Hertil har Metro Service svaret:

"Regarding the behavior of the steward, we have commented on this in our reply to the complainant, in our answer dated 20th of February 2015.

I am sorry that I apparently misunderstood the complaint. As the complainant in the complaint scheme to Ankenævnet wrote:

I understand by now that I took the wrong ticket (by mistake – not on purpose!), but I can't accept this severe penalty (cojoined with this huge penalty fee) against the background of the whole situation what happened in december!

I was of the impression, that the complainant wanted us to waive our claim towards her, due to the behavior of the steward.

The fine is issued on a correct basis, and the reason is not linked to the behavior of the steward. As mentioned earlier, we are sorry if the complainant have had a bad experience, and we have therefore forwarded the initial complaint to the responsible manager, in order to interview the steward, and hereafter decide if any disciplinary actions should be taken.

Furthermore we have acknowledged the fact, that the slip to sign is only in Danish, and we will consider writing this in English too.

It should be noted, that the signature is only to verify that a fine has been received; and is therefore **not** an acceptance of agreeing to the fine.

I am happy to confirm, that since the complainants fine were issued I December 2014, we have changed the text on the signature slip to the following:



If the above mentioned is not sufficient for answering the complainant, we kindly request the complainant to be very clear about what exactly she wants to achieve with the complaint.”

Til dette har klageren anført:

“With pleasure I will explain again what I want to achieve with my complaint:

Indeed I want them to waive their claim (fine of 750 DK) towards me, due to the inadequate behavior of the steward – quasi as an excuse, for reasons of fairness and obligingness!

Because: Even if the fine is not linked directly to the (inadequate) behavior of the steward, the Metro company has to take into account that there was a tourist (me, first time in Denmark), who unintentionally had the wrong ticket (as I mentioned before: If I wanted to betray someone I wouldn't have bought any ticket at all!), but who was treated nearly like a criminal!

I repeat again the most important facts:

The steward took my identity card and made some pictures of it, without mentioning or even asking me. The steward refused to give it back to me up till I had signed the Danish form I didn't understand. The steward didn't mention his name, so I couldn't refer to him

Thus I had a really bad experience, due to the already described inadequate behavior of the steward – and that in the meantime for example the text on the signature slip had been changed doesn't change anything in retrospect for me! Quite the reverse: This change proves that the Metro company has noticed in the meantime that their procedures were deficient and misleading. Furthermore some eventual disciplinary actions towards the steward prove that their staff should be better taught in adequate handling of customer!

As mentioned several times before: I know meanwhile that I made a mistake, so I furthermore offer to pay a generous surcharge in the amount of 100 DK – instead of the required fine of 750 DK!

As I said: For the Metro company it could be (in terms of customer orientation and a professional customer satisfaction management) a gesture of concession – due to the inadequate behavior of the steward I had to experience!"

Til dette har Metro Service svaret:

"As the complainant writes, that "*Indeed I want them to waive their claim (fine of 750 DK) towards me, due to the inadequate behavior of the steward – quasi as an excuse, for reasons of fairness and obligingness!*", I am of the belief that we have provided a full answer in our reply directly to the complainant dated 20th February 2015.

I would once again take this opportunity to regret the complainants experience with our steward, bus as mentioned previously, we have sent the inquiry to the responsible manager, for further internal handling.

Despite the complainants perception of the meeting with the steward, in does not change the fact, that the complainant did not have a valid ticket when inspected by the steward, and these two things are not linked together.

The complainant writes that: "*..... the Metro company has to take into account that there was a tourist (me, first time in Denmark), who unintentionally had the wrong ticket.....*".

The rules and responsibilities are equal to all passengers, which is why we have provided sufficiently information in both Danish and English."

Til dette har klageren anført:

"Actually I think that I've written it before, but I sum it up again:

The core of my complaint does not refer to "valid ticket or not" resp. „intentionally or unintentionally" as Metro Service wrote, but to **the fact that I was treated inadequate** (see below the extensively enumeration, I described it several times; e.g. the thing with the identity card or the signing of a form I didn't understand)! This is something Metro Service pretty much ignores – except that he mentions that "he regrets the complainants experience with our steward" and that he has "sent the inquiry to the responsible manager, for further internal handling". This internal procedure doesn't have any impact on me, so it makes no difference for my complaint! Moreover (I

repeat): This proves that the Metro company's staff should be better taught in adequate handling of customer – so Metro Service exactly knows that there is / was a certain lack of service orientation!

So I am still convinced that it would be an appropriate gesture of fairness, obligingness and concession that the Metro company waives their claim about 750 DK towards me – and that we possibly will agree about a significantly lower fine (see below my proposal)!"

Hertil har Metro Service svaret:

"The fine is issued as the complainant did not have a valid ticket, and cannot in our opinion be linked to the unfortunate experience the complainant claims having had with our staff."

ANKENÆVNETS BEMÆRKNINGER:

Retsgrundlaget:

Ifølge § 2, stk. 2, i lovbekendtgørelse nr. 969 af 08. oktober 2009 om lov om jernbaner, gælder loven også for metroen. Af § 23 fremgår det, at transportministeren fastsætter regler om jernbanevirksomhedernes adgang til at opkræve kontrolafgift og ekspeditionsgebyr for passagerer, der ikke foreviser gyldig rejsehjemmel (billetter og kort).

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

Fra de fælles rejseregler for Hovedstadsområdet:

2.2 Køb af rejsehjemmel

Ved rejser med DSB, DSB Øresund, Metro, Movia eller Regionstog skal kunden være i besiddelse af gyldig rejsehjemmel inden rejsen påbegyndes. Rejsehjemmel kan ikke købes i toget. Det er muligt at købe rejsehjemmel i automater på stationerne. Dog kan ikke alle typer rejsehjemmel købes i automaterne. Alle automater modtager mønter, og de fleste automater modtager også betalingskort.
(...)Nærmere information, om hvordan og hvor der kan købes rejsehjemmel, findes på selskabernes hjemmesider.

2.3 Generelle principper

Kunden skal ved modtagelsen af rejsehjemmel sikre sig, at det udleverede svarer til det ønskede. Kunden skal have gyldig rejsehjemmel til hele rejsen. Det er kundens ansvar at sikre sig dette. Dette gælder også ved rejser med bus. Chaufføren udfører ikke systematisk billetkontrol, men kan give vejledning på kundens forespørgsel. (...)

2.3.1 Særligt om billetter og kort

Det er kundens ansvar, at billetten eller kortet er korrekt stemplet eller udfyldt og gælder for hele rejsen.

Billetter og kort, der skal stemples, skal stemples inden kunden stiger ind i tog eller metro. (...)

Billetter er gyldige i den periode og på den strækning samt det omstigningsområde eller det antal zoner, som er påtrykt billetten. (...)

Billetter og klippekort skal være gyldige til den fjerneste (dyreste) zone, som rejsen går igennem.

Periodekort er gyldige i den periode, der er påtrykt. Periodekortet skal være gyldigt til alle zoner, der rejses igennem.

Billetter og kort, der lyder på navn, må ikke overdrages til en anden person. Kunden skal stige på, inden billetten eller kortet udløber. Billetten eller kortet kan dog anvendes, hvis den var gyldig på det tidspunkt, hvor transportmidlet ifølge køreplanen skulle køre fra stoppestedet eller stationen. Hvis transportmidlet ikke

kører efter en køreplan, men i intervaller, skal billetten eller kortet være gyldig fra det tidspunkt, hvor kunden står på bussen eller toget. Transportmidlet skal forlades ved førstkomende endestation.

2.5 Kontrol af rejsehjemmel

Gyldig rejsehjemmel 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.

DSB tilbyder for nogle billettyper køb af Print-Selv billet. Print-Selv billet på papir eller skærm skal sammen med det valgte ID vises ved billetkontrol. Hvis billetten vises på skærm, skal skærmen være så stor, at billetten i sin helhed umiddelbart kan aflæses, og billetens stregkode scannes.

Det er kundens ansvar, at alle oplysninger i mobilprodukter kan vises til kontrolpersonalet, f.eks. ved at der kan scrolles eller bladres efter behov eller ved at give telefonen til kontrolpersonalet. Mobilproduktets gyldighed skal kunne verificeres ved at kontrolpersonalet sender en kontrolbesked eller foretager kontrolopringning til det telefonnummer, hvortil mobilproduktet er bestilt.

Kan gyldig rejsehjemmel ikke fremvises på forlangende, vil en efterfølgende visning ikke blive accepteret, jf. dog pkt. 2.6 om rejse uden periodekort.

Politiet kan medvirke eller tilkaldes under kontrollen, hvis kontrolpersonalet skønner det nødvendigt.

2.6 Kontrolafgift

Kunder, der ikke på forlangende viser gyldig rejsehjemmel, herunder korrekt ind-checket rejsekort til deres rejse, skal betale en kontrolafgift. Det gælder også, hvis kunden har købt rejsehjemmel via en mobil enhed, og denne er løbet tør for strøm eller gået i stykker.

Som kunde uden gyldig rejsehjemmel betragtes også kunder, der benytter kort med begrænset tidsgyldighed (f.eks. pensionistkort) uden for kortets gyldighedstid, eller hvis andre rejsetidsbegrænsninger ikke overholdes (f.eks. for hvornår cykler må medtages). Kunder, der rejser på andres personlige kort eller med en anden kundetype, end kunden er berettiget til, rejser også uden gyldig rejsehjemmel.

Kontrolafgiften udgør 750 kr. for voksne og 375 kr. for børn og hunde. For cykler er afgiften 100 kr.

Kontrolafgifter til DSB Øresund kan også betales i SEK og udgør da 1.000 SEK (voksne), 450 SEK (børn og hunde) og 150 SEK (cykler).

Kontrolafgiften udgør i ovennævnte tilfælde rejsehjemmel til en uafbrudt rejse til den station på strækningen, som kunden oplyser, og kun med det selskab der har udstedt afgiften. I busser udgør kontrolafgiften rejsehjemmel til bussens endestation. (...)

Kunden skal legitimere sig ved kørekort eller andet retsgyldigt dokument med foto og kvittere for modtagelse af kontrolafgift, hvoraf fremgår navn, adresse, fødselsdato og underskrift. Der kan foretages opslag i CPR-registeret til identifikation eller kontrol af kundens oplysninger. Kunden skal ved sin underskrift bekræfte rigtigheden af de angivne oplysninger.

Selskaberne kan nedsætte kontrolafgiften til 125 kr. mod samtidig betaling af den ordinære billetpris, hvis særlige forhold gør sig gældende.

Kunder, der har et gyldigt personligt periodekort, men ikke kan forevise det ved kontrol, kan hos Movia, Lokalbanen, Regionstog, Metro og DSB Øresund få kontrolafgiften nedsat til 125 kr., såfremt kopi af periodekortet fremsendes til kundecenteret hos det selskab, som har udstedt kontrolafgiften senest 14 dage efter kontrolafgiftens udstedelse. Hos Lokalbanen kan periodekortet også forevises i et betjent billetsalg.

Kunder, der hos DSB er tilmeldt "Glemt-kort" ordningen og ved kontrol i DSB-tog ikke kan forevise deres periodekort, kan ved at identificere sig med CPR-nummer, 2 gange pr. løbende år rejse i periodekortets gyldighedsområde uden at betale kontrolafgift.

Selskaberne kan ændre størrelsen af kontrolafgifter og ekspeditionsgebyrer.

Selskaberne kan opkræve gebyr for at sende betalingspåmindelser. Betales gælden ikke efter en eller flere rykkere, overdrages fordringen til inddrivelse via SKAT. Ved overtagelse af gælden beregner SKAT sig et gebyr, der tillægges gælden.

Enhver indbetaling på kontrolafgiften anvendes først til dækning af eventuelle påløbne, ikke-betalte renter og gebyrer og dernæst til afdrag på selve hovedstolen."

Den konkrete sag:

Vedr. kontrolafgiften:

Klageren kunne i kontrolsituationen i metroen den 10. december 2014 i zone 04, efter metroen havde forladt Femøren st., ikke forevise gyldig billet, da hun ved påstigning på metroen på Kongens Nytorv i zone 01 kun havde købt en 2-zoners billet i stedet for den til rejsen nødvendige 3-zoners billet.

Kontrolafgiften blev derfor pålagt med rette.

Det bemærkes, at pligten til at betale kontrolafgift ikke er betinget af, om passageren bevidst har forsøgt at unddrage sig fuld betaling. Dette er et område med stor mulighed for omgåelse af reglerne om at have gyldig billet, hvorfor ankenævnet ikke finder, at der er grundlag for at fravige reglerne om, at passageren selv bærer ansvaret for korrekt billettering.

Omstændighederne ved udstedelsen af kontrolafgiften:

Ankenævnet lægger til grund som forklaret af klageren, at hun blev bedt om at underskrive en kvittering for modtagelsen af kontrolafgiften affattet på dansk for at få sit ID-kort tilbage. Ankenævnet finder dette kritisabelt.

Det bemærkes, at Metro Service efter klagerens henvendelse har ændret teksten på kvitterings-slipperne således, at disse også er affattet på engelsk.

Omstændighederne omkring udstedelsen af kontrolafgiften kan dog ikke føre til, at Metro Service skal fratage kontrolafgiften.

På den baggrund finder ankenævnet, at der ikke har foreligget sådanne særlige omstændigheder, at klageren skal fritages for kontrolafgiften.

Ankenævnet træffer herefter følgende

AFGØRELSE:

Metroselskabet I/S v/Metro Service A/S er berettiget til at opretholde kravet om klagerens betaling af kontrolafgiften på 750 kr. Beløbet skal klageren betale inden 30 dage jf. ankenævnets vedtægters § 15.

Da klageren ikke har fået medhold i klagen, tilbagebetales klagegebyret ikke, jf. ankenævnets vedtægter § 26, stk. 4, modsætningsvist.

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, www.advokatsamfundet.dk og /eller eget forsikringssselskab om eventuel forsikringsretshjælp.

På ankenævnets vegne, den 29. september 2015



Tine Vuust
Nævnshoved