

**AFGØRELSE FRA  
ANKENÆVNET FOR BUS, TOG OG METRO**

**Journalnummer:** 2015-0221

**Klageren:** XX  
England

**Indklagede:** Metroselskabet A/S v/Metro Service I/S

**CVRnummer:** 21 26 38 34

**Klagen vedrører:** Kontrolafgift på 750. kr. for manglende gyldig rejsehjemmel.

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

Ankenævnet for Bus, Tog og Metro har på et møde den 19. april 2016 truffet følgende:

**AFGØRELSE:**

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

Klageren skal betale beløbet til Metro Service, 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.

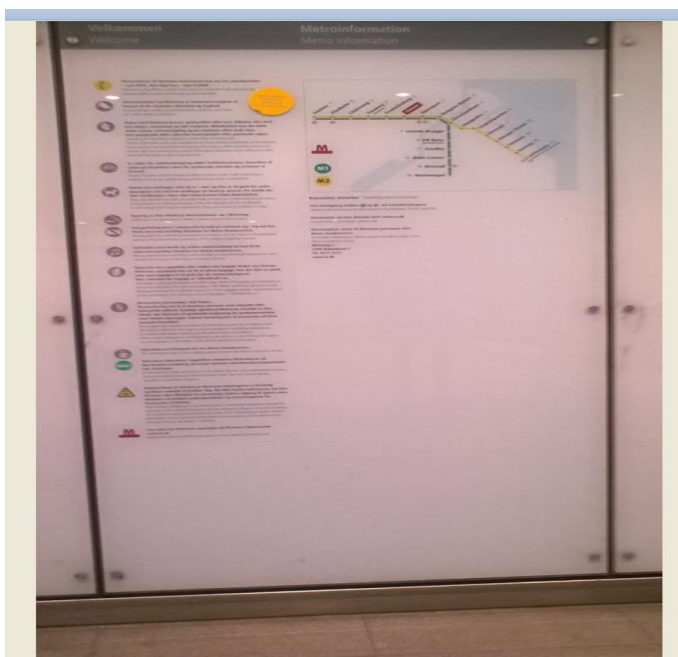
## SAGENS OMSTÆNDIGHEDER:

Klageren, som er bosiddende i England, rejste den 9. august 2015 med metroen uden forinden at have købt billet, da han var blevet fortalt, at man kunne købe billet om bord.

Da metroen havde forladt Kongens Nytorv st., blev klageren billetteret, og da han intet kunne forvise, blev han pålagt en kontrolafgift på 750 kr.

Den 20. august 2015 anmodede klageren Metro Service om annullering af kontrolafgiften med følgende begrundelse:

"Firstly, we were tourist and were not familiar with the regulations of your trains. Secondly, a local citizen told us it was possible to buy a ticket onboard. Thirdly, the train steward refused to understand our situation as innocent tourists, resulting in our humiliation in a foreign country. Lastly, enclosed is a photo which displays the small front of the regulations. It's unfair to expect your passengers (when they are unfamiliar with the system) to look for and read a notice of this nature"



Den 24. august 2015 fasthold Metro Service deres kontrolafgift med følgende begrundelse:

"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, before entering the metro.

Furthermore, you must be able to show the ticket or card in case of a ticket inspection.

It is always the responsibility of the passenger to make sure that the ticket has the correct zones for the entire journey. All of our ticket stamping machines, as well as our information boards, contains a map of the zones of the Copenhagen area, which can be used to calculate the necessary amount of zones.

The point of reference is the "red zone", which is the zone where the journey begins. From there, the amount of zone rings (colours), including the one that contains the destination, are counted and make up the amount of zones that the ticket needs to be valid for. A minimum of two zones is required per passenger.

Information regarding tickets, validity as well as the zone system is available in English at all stations.

Call points can be found on all of our ticket vending machines, and on our stations here is also yellow call point several places. These call points (the one on the ticket vending machine and the yellow ones on the station) 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. This operator can, in case he or she cannot help over the call point, call a steward to the station for help and/or guidance.

Considering the above, you will be charged the full amount of the fine, which we request that you pay as soon as possible and before: September 14th 2015

Further complaints can be directed to The Appeal Board for bus, train and Metro.."

### **ANKENÆVNETS BEGRUNDELSE:**

Klageren kunne ikke forevise gyldig rejsehjemmel i kontrolsituationen, fordi han var steget om bord på metroen uden at have købt billet. Det har aldrig været muligt at købe billet om bord på metroen.

Kontrolafgiften blev herefter pålagt med rette.

Det anførte af klageren om, at reglerne for køb af billetter på tavlen på perronen er skrevet med en for lille skrift, og at han af en lokal havde fået oplyst, at han kunne købe en billet ombord på metroen, kan ikke føre til andet resultat. Det er ankenævnets opfattelse, at klageren ikke uden nærmere undersøgelse af betingelserne for rejse med metro, kunne gå ud fra, at han kunne stige gratis om bord og først købe billet efterfølgende.

Det bemærkes, at pligten til at betale kontrolafgift ikke er betinget af, om passageren bevidst har forsøgt at unddrage sig fuld betaling, da dette er et område med oplagt mulighed for omgåelse af reglerne om at betale for sin rejse.

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

Da ankenævnet oplever et stærkt stigende antal sager med ikke-dansktalende passagerer, som rejser uden billet af den ene eller anden årsag, henstiller ankenævnet til, at det endnu mere tydeligt skiltes på perronerne på engelsk, at det koster en kontrolafgift på 750 kr. at stige på metroen uden billet.

### **RETSREGLER:**

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.

Trafikselskaberne i Hovedstadsområdet har vedtaget fælles rejseregler, hvori hjemmelen til udstedelse af kontrolafgift fremgår. Det anføres således bl.a., at passageren skal have gyldig rejse-hjemmel 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 peronen forlades.

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

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

### **Klageren har blandt andet anført følgende:**

“ In English law, for example, there are strict rules about imposing penalties on people; the “red hand rule” requires that the possibility of penalties must be clearly advertised; your small notice would be unlikely to satisfy that requirement. In addition, European law (to which Denmark is subject) protects consumers through various directives.

I hope that it will not be necessary for us to have to pursue these avenues of Enquiry and that you will agree that, in the circumstances, these fines should not be pursued. Finally, I expect to be fully compensated for the 160 DKK I have had to pay in order to appeal against my fine. This is quite astonishing and again, if you do not compensate me I will be seeking legal advice with immediate effect.”

### **Indklagede har anført at:**

“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 please 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.

In the case in question, the complainant is met by a steward inspecting tickets on the 9<sup>th</sup> of August 2015 at 11.18 am between Kongens Nytorv station and Amager Strand station. Since the complainant is not able to present a valid ticket a fare evasion ticket is issued, according to the travel regulations.

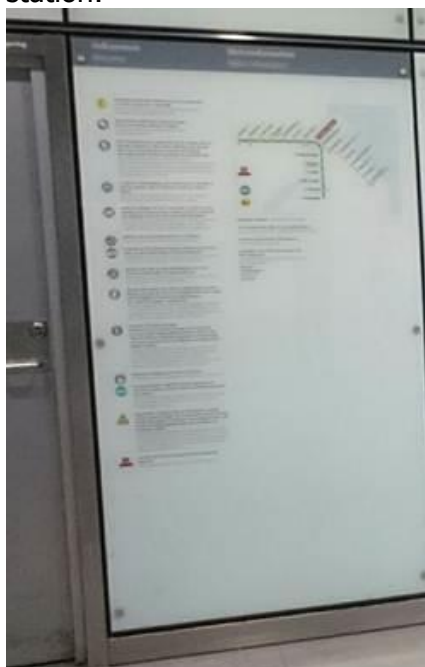
The complainant wrote to Metro:

Firstly, we were tourists and were not familiar with the regulations of your trains. Secondly, a local citizen told us it was possible to buy a ticket onboard. Thirdly, the train steward refused to understand our situation as innocent tourists, resulting in our humiliation in a foreign country. Lastly, enclosed is a photo which displays the small font of the regulations. It's unfair to expect your passengers (when they are unfamiliar with your system) to look for and read a notice of this nature.

As mentioned above the Metro staff is trained to issue fare evasion tickets to all customers without a valid ticket. They are also trained to do this friendly and respectfully and we are sorry if the complainant felt humiliated.

Passengers should do an effort in familiarizing themselves with a transport system, when coming to a foreign country. On every metro station there are information boards in both English and Danish. The complainant has attached a photo of one of these boards in his inquiry to Metro, claiming that they are written in a font too small to read.

We have supplemented the complainants photo with our own. These are from Kongens Nytorv station:



And here is a close up of some of the information on the boards:

#### The metro operates 24/7

During daytime: 2-6 minutes between train departures.  
During night: 10-20 minutes between train departures.  
Longer travel time might occur  
– when transferring from M1 to M2  
– due to planned maintenance work  
– due to operational disruptions  
Any changes will be announced on [www.m.dk](http://www.m.dk).

#### Penalty

Remember it is your responsibility to have a valid ticket or travel card for both you and your potential companions. Lack of ticket or card and travelling during curfew (pensioners and/or bicycles) will per 1. January 2013 result in a penalty charge of 750 DKK per adult, 375 DKK per child/dog and 100 DKK per bicycle and onward travel in this period is not allowed. We refer you to [www.m.dk](http://www.m.dk) and the travel rules for applicable penalty charges.

#### Children

Up to two children under the age of 12 travel for free in the Metro, if accompanied by a paying adult. Children traveling alone and under the age of 16 must have a children's ticket.

#### Dogs

#### 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.

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

In his complaint to the Appeal Board the complainant writes:

I would like you to reconsider my fine, and I request that the matter is elevated to a more senior manager within your organisation. I would also query the legality of the fine that you have purported to impose on me in the circumstances of my case. This is something that I can investigate further with lawyers here in England if it becomes necessary to do so. In English law, for example, there are strict rules about imposing penalties on people; the "red hand rule" requires that the possibility of penalties must be clearly advertised; your small notice would be unlikely to satisfy that requirement. In addition, European law (to which Denmark is subject) protects consumers through various directives. I hope that it will not be necessary for us to have to pursue these avenues of enquiry and that you will agree that, in the circumstances, these fines should not be pursued.

Finally, I expect to be fully compensated for the 160 DKK I have had to pay in order to appeal against my fine. This is quite astonishing and again, if you do not compensate me I will be seeking legal advice with immediate effect.

We do not know the English law, but refers to the provisions applicable to the use of public transport in the greater Copenhagen area in Denmark. Rules which requires that you must be in possession of a valid ticket before boarding the train, or otherwise accept to receive a fare evasion ticket if inspected.

Considering the above and the fact that the complainant did not have a valid ticket, we maintain our claim on the fare evasion ticket of 750,- kroner. "

På ankenævnets vegne



Tine Vuust  
Nævnshoved