

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

Journalnummer: 2014-0214

Klageren: XX
2500 Valby

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

Klagen vedrører: Kontrolafgift på 750 kr. for manglende zone på periodekortet.

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

SAGSFREMSTILLING:

Klageren reklameret til indklagede: Den 12. juni 2014

Klagegebyr modtaget i ankenævnet: Den 9. juli 2014

Sagens omstændigheder:

Klageren rejste den 11. juni 2014 med metroen fra Nørreport st. mod Ørestad st. Som rejsehjemmel anvendte han et periodekort med zonerne 01 – 02.

Efter metroen havde forladt Sundby st. i zone 03, var der kontrol af klagerens rejsehjemmel, og da han ikke havde foretaget køb af tillægsbillet til zone 03, blev han pålagt en kontrolafgift på 750 kr. for manglende zone på periodekortet.

Den 12. juni 2014 anmodede klageren Metro Service om annullering af kontrolafgiften og gjorde følgende gældende:

Yesterday, 11th of June, I got a fine (# 00179207) issued on me on the Metro line 1. I was riding the train from Nørreport and was supposed to get off at Ørestad. It was my first time in metro train and I did not know that it goes from the 1st zone to the 3rd. When the conductor came in he told me that I did not have the supplement for the 3rd zone and that he needs to issue a fine on me.

I would like to query this. I did not intend to cheat and to ride the train without valid ticket. I had a period card valid from 14th of May to 12 of June. Yesterday, previously to getting on the Metro, I had also bought extension for period card, valid from 13th of June till 12th of July. My period card is valid for zones 1 and 2 and if I had known that I was going to the 3rd zone I would certainly get the applicable supplement. The thing is that I usually only ride S Train and not any other means of public transport, so I really did not know which zones the Metro lines go through.

I am an honest person and have intention to follow the rules and laws and pay for the services I use and not to cheat. On the way back I took the same Metro line and I bough supplement from 3rd zone for 1 zone, for 12 kr. From now on I will definitely get informed about which zones I am traveling through and make sure that I have a valid ticket.

Den 26. juni 2014 fastholdt Metro Service kontrolafgiften med henvisning til selvbetjeningssystemet, hvorefter passageren skal sikre sig at have gyldig rejsehjemmel og at periodekortet ikke var gyldigt til den zone, hvor han var blevet kontrolleret.

Zonekort:



PARTERNES KRAV OG BEGRUNDELSER:

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

" The situation went like this. On 11th of June, I got a fine (# 00179207) issued on me on the Metro line 1. I was riding the train from Nørreport and was supposed to get off at Ørestad. It was my first time in Metro train ever and I did not know that it goes from the 1st zone to the 3rd. When the conductor came in he told me that I did not have the supplement for the 3rd zone and that he needs to issue a fine on me. So I got the fine.

I queried this to Metro Service, explaining that I did not intend to cheat and to ride the train without valid ticket. I had a period card valid from 14th of May to 12th of June. The day before, previously to getting on the Metro, I had also bought extension for period card, valid from 13th of June till 12th of July. My period card was valid for zones 1 and 2 and if I had known that I was going to the 3rd zone I would certainly get the applicable supplement. The thing is that I only ride S Train and not any other means of public transport, so I really did not know which zones the Metro lines go through.

In my complaint I also stressed that am an honest person and have intention to follow the rules and laws and pay for the services I use and not to cheat. On the way back from Ørestad I took the same Metro line and I bought supplement ticket from 3rd zone for 1 zone, for 12 kr. Later on I went to Ørestad for another 7 times, each time buying supplement ticket on the way there and back (some of these can be evidenced on my bank account as I bought them by credit card).

In the complaint, I also stated that from then on I would definitely get informed about which zones I am traveling through and make sure that I have a valid ticket.

For the Board I would also like to say that I consider important that I had no INTENTION to cheat, I was simply unaware of the situation. I think that cases where the person did not have all the data in order to obey a rule should not be treated with same severity as those where violation is knowing. I would also like to say again that I am an honest person and citizen and I haven't done any other violation in my almost 1 year residing in Denmark.

Considering the above and that this is my first time riding one means of public transport without valid ticket, I would ask you to cancel the fine."

Indklagede: Fastholder kravet om betaling af kontrolafgiften og har til støtte herfor gjort følgende gældende:

" 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.

Ticket as well as zone information is available at all stations. The passengers can among other things find information regarding how many zones are needed or which zones are needed when using tickets, clipcard or monthly passes.

The information is in Danish as well as in English.

See below part of the texts written in English as it is written on the information board **Trafikinformation / Traffic information:**



Klippekort : Voksen	Barn							
	2	3	4	5	6	7	8	Alle
1 klip*								1 klip
2 klip	1 klip*	1 klip*						2 klip

7 zoner	8 zoner	Alle zoner
2 timer 15 min	2 timer 30 min	2 timer 45 min
2 timer	2 timer	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

Zone maps are also available inside the metro trains (see below):



In this particular case the complainant was asked by the steward to present valid ticket or card, after the train leaving Sundby (Zone 3).

The complainant presented a monthly pass valid in zone 01 and 02 – and was therefore fined for the missing zone”.

ANKENÆVNETS BEMÆRKNINGER:

Retsgrundlaget:

Ifølge § 2, stk. 2, i lovekendtgørelse 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 Metroens rejseregler (forretningsbetingelser):

Billetkontrol og misbrug

Alle passagerer skal have gyldig billet eller kort inden påstigning. Billetten skal opbevares under hele rejsen, og indtil Metroens område forlades. Der er dog ikke krav om at personer, der har et andet ærinde på metrostationerne og ikke skal rejse med Metroen, skal have gyldig billet. Billetter og kort skal fremvises på forlangende. Billetkontrol kan ske både under rejsen, ved udstigning og på metrostationen efter afsluttet rejse. Metro Stewarder kan bede om at se legitimation i tilfælde, hvor der er begrundet tvivl om

- personens alder ved billetkontrol af børnebillet
- personen rejser på en anden passagers periodekort
- personens identitet er korrekt

Hvis man ikke kan fremvise gyldig billet eller kort under rejsen, i forbindelse med udstigning eller på Metrostationens område efter at have afsluttet rejsen, udstedes en kontrolafgift. Kontrolafgiften er et girokort, som kan betales via bank/netbank eller på posthus.

Kontrolafgiften er samtidig billet til videre rejse til den metrostation, passageren oplyser som bestemmelsesstationen. Se særlige regler for cykler under afsnittet Cykler. Kontrolafgiften er pr. januar 2013 på 750 kr. for voksne, 375 kr. for børn, 375 kr. for hunde og 100 kr. for cykler.

For rejsende, der har checket ind ved rejsens start; men ikke foretaget check ind ved skift til metroen, udstedes kontrolafgift på 50 kr.

Gældende priser og gebyrer kan ses på m.dk

Metroens Stewarder skal altid på forlangende fremvise ID; men er ikke forpligtet til at oplyse navn.

Den konkrete sag:

Klagerens periodekort var gyldigt til zonerne 01 – 02, og han kunne derfor ved kontrollen i zone 03 ikke forevise gyldig rejsehjemmel. Kontrolafgiften blev derfor pålagt med rette.

Ved køb af periodekort opnås en rabat, som er betinget af, at kortet har begrænset gyldighed til de specifikke zoner, der er påført på selve kortet, og som passageren har oplyst ved køb af kortet. Det er derfor ikke antallet af zoner på periodekortet, der er afgørende for, hvor man kan anvende kortet, men derimod kortets specifikke zoner, som fremgår af zoneoversigten på perronen.

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

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

Ankenævnet træffer herefter følgende

AFGØRELSE:

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 21. november 2014



Tine Vuust
Nævnshoved