

AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

Journalnummer: 2015-0010

Klageren: XX på egne vegne og på vegne af YY
England

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

Klagen vedrører: To kontrolafgifter på i alt 1.500 kr. for manglende rejsehjemmel. Klagerne kunne ikke finde information på engelsk om, hvordan man køber billet.

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

SAGSFREMSTILLING:

Klageren reklameret til indklagede: Den 5. januar 2015.

Klagegebyr modtaget i ankenævnet: Den 8. januar 2015.

Sagens omstændigheder:

Klageren og dennes partner, som begge er bosiddende i England, rejste den 15. december 2014 med metroen i retning mod Nørreport st. i zone 01.

Efter Metroen havde forladt Bella Center st. i zone 03, blev både klageren og dennes partner pålagt en kontrolafgift på hver 750 kr., for manglende rejsehjemmel.

Stewarden har på begge elektroniske kontrolafgifter noteret "intet forevist", som årsag til kontrolafgifternes udstedelse.

Den 5. januar 2015 anmodede klageren Metro Service om annullering af begge kontrolafgifter og gjorde følgende gældende:

”

I and my partner came to Copenhagen on a birthday trip for the first time.

We arrived at our hotel on 15th Dec at 11am – we were too early to check in so the receptionist told us to get the metro into town.

We headed to the metro – none of the ticket machines were in English and we didn't know where to go or what stop to get on/off. So we decided to buy a ticket on the metro as we can do this in the UK. When we got on the metro and asked the ticket man to buy a ticket to which he explained we cannot do this in Copenhagen and issued us with a fine.

I am extremely disappointed in this as we are English tourists there were no signs in English to explain the purchasing of tickets. We have never visited your country before so were shocked to receive this fine. In the UK we get metros all the time and pay on the metro/trains without a problem.

I have taken pictures of the metro ticket machine showing no signs in English. But as I cannot attach more than 1 file I can send separate or if you email me I can send them on at

”

Efterfølgende (ukendt dato) fastholdt Metro Service begge kontrolafgifter 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.

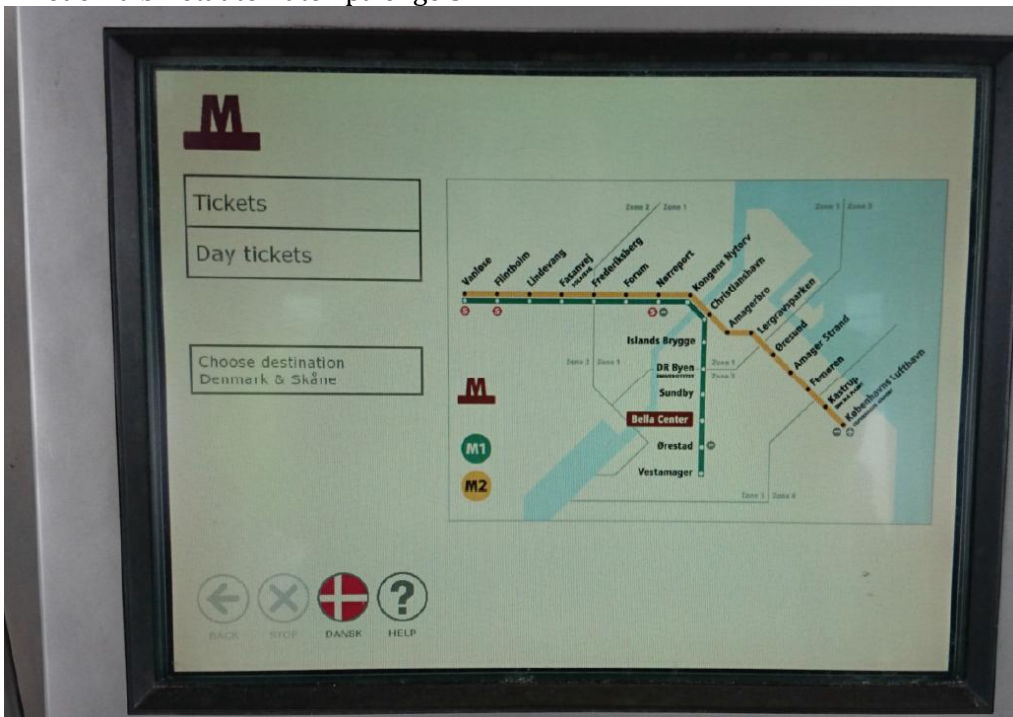
It is your responsibility to ensure that your ticket or clip card is correctly stamped and that it is valid for the entire journey, before entering the metro. Furthermore, you must be able to show the ticket or card in case of a ticket inspection.

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

Yellow call points can be found on all of our ticket vending machines as well as 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.”

Metro Service har fremlagt følgende billeder i sagen:

Billede fra billetautomaten på engelsk:



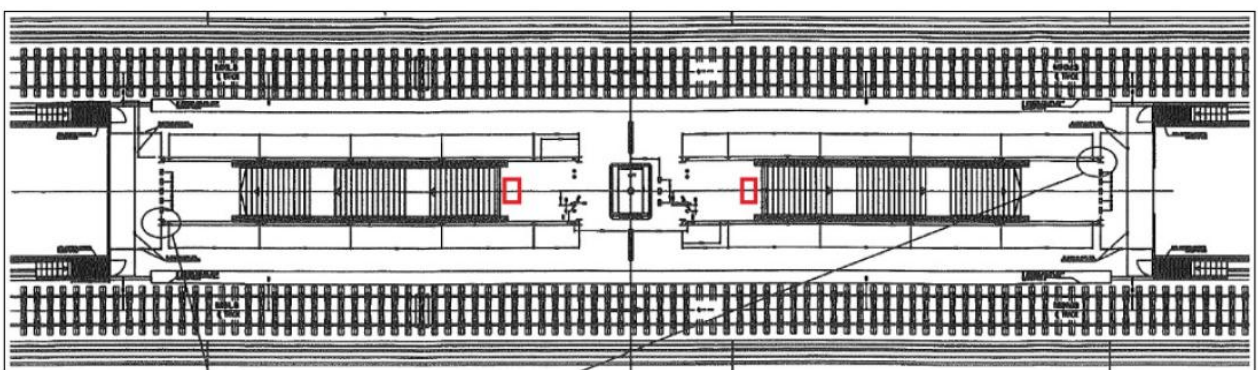
Billetautomat 1:



Billetautomat 2:



Placeringen af de to billetautomater:



PARTERNES KRAV OG BEGRUNDELSER OVERFOR ANKENÆVNET:

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

" I and my partner came to Copenhagen on a birthday trip for the first time. We arrived at our hotel on 15th Dec at 11am – we were too early to check in so the receptionist told us to get the metro into town.

We headed to the metro – none of the ticket machines were in English and we didn't know where to go or what stop to get on/off. So we decided to buy a ticket on the metro as we can do this in the UK

When we got on the metro and asked the ticket man to buy a ticket to which he explained we cannot do this in Copenhagen and issued us with a fine.

I am extremely disappointed in this as we are English tourists there were no signs in English to explain the purchasing of tickets. We have never visited your country before so were shocked to receive this fine. In the UK we get metros all the time and pay on the metro/trains without a problem.

I have taken pictures of the metro ticket machine showing no signs in English. See attached,

Thank you.

I have had a reply from the Metro company stating there are english signs but there wasnt and some sort of telephone – again we didnt see this – see their reply here: i wish to take this further by complaining to yourselves "

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

" Please find our comments to the above mentioned complaint.

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 Metro 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 and his companion did not purchase any tickets. When they met a steward on the train they were issued a fare evasion ticket each in accordance with regulations.

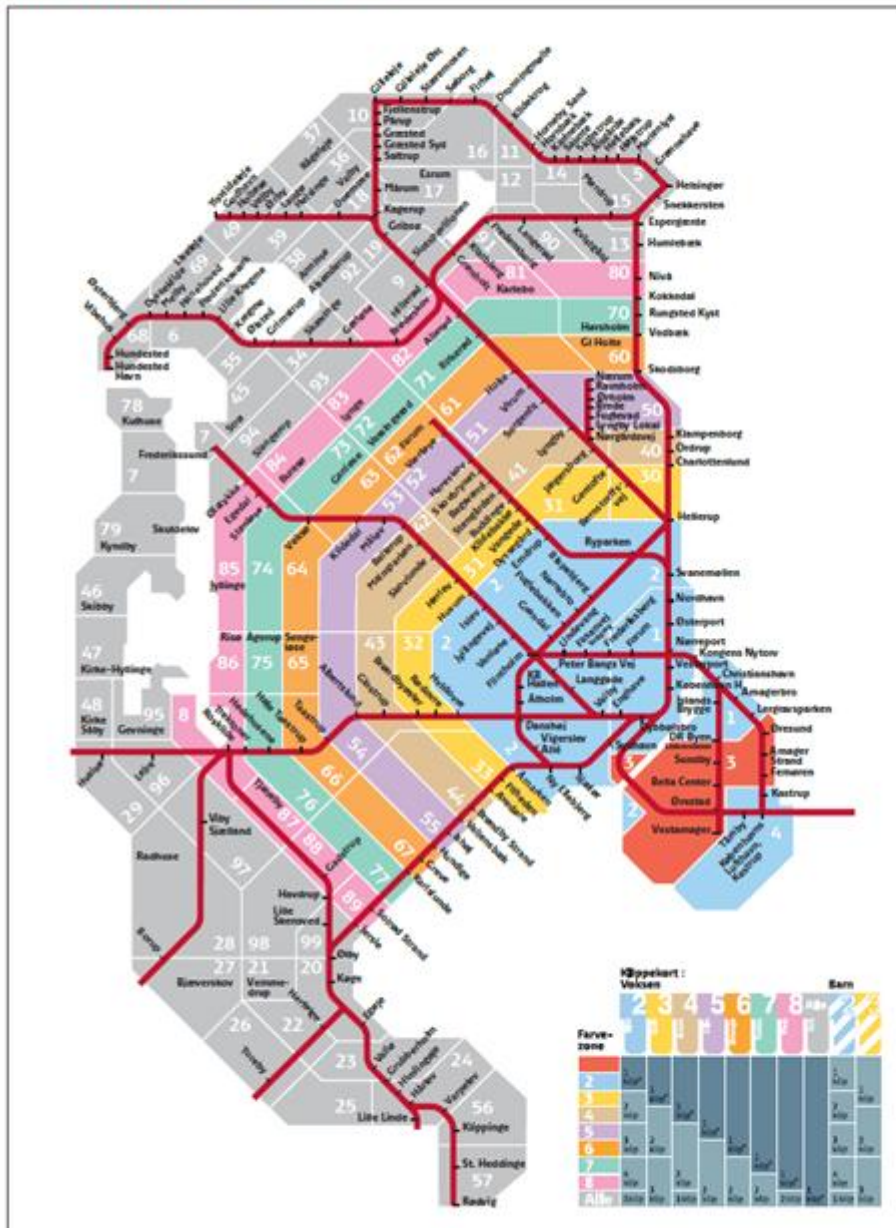
In his request the complainant claims that there are no ticket machines and no English guide to find at Bella Center station. To support his claim the complainant has attached photos of the ma-

chines used for clip-cards and rejsekort, none of which are ticket vending machines and none of the machines have any ability to insert a credit card or drop coins.

At Bella Center station there are two ticket machines and signs explaining in Danish as well as in English, how to buy tickets, how to read the zone-system and what happens if you do not purchase a ticket before entering the train, see attached pictures.



ZONER OG BILLETTER / ZONES AND TICKETS



Billetkøb
Billetmaskinerne på alle metrostationerne sælger rejser til hovedstadsområdet, øvrige Danmark og Skåne. Maskinerne tager alle større betalingskort samt danske mønter. Læs om køb af forskellige billettyper nedenfor og på www.m.dk

Billetter
Alle billetter gælder til både bus, tog og Metro inden for billettens gyldighedsperiode.

Zoner
Hovedstadsområdet er delt op i zoner. De længste rejser i Metroen (fra Vanløse til Lufthavnen) koster 3 zoners takt. Sådan køber du billet:
- Rejsen begynder i den røde zone på kortet
- Find zonen for dit rejsmål
- Se antal zoner, du skal købe billet til
- Den dyreste zone bestemmer rejsens pris
- Du skal købe billet til mindst 2 zoner pr person

Rejser du på periodekort, skal kortet indeholde de zonenumre (anfært med hvidt), som du ønsker at rejse igennem.

Gyldighed	Kontantbilletter	Klippekort
2 zoner	1 time	1 time
3 zoner	1 time 15 min	1 time
4 zoner	1 time 30 min	1 time 30 min
5 zoner	1 time 45 min	1 time 30 min
6 zoner	2 timer	1 time 30 min
7 zoner	2 timer 15 min	2 timer
8 zoner	2 timer 30 min	2 timer
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

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 and the travel rules for applicable penalty charges.

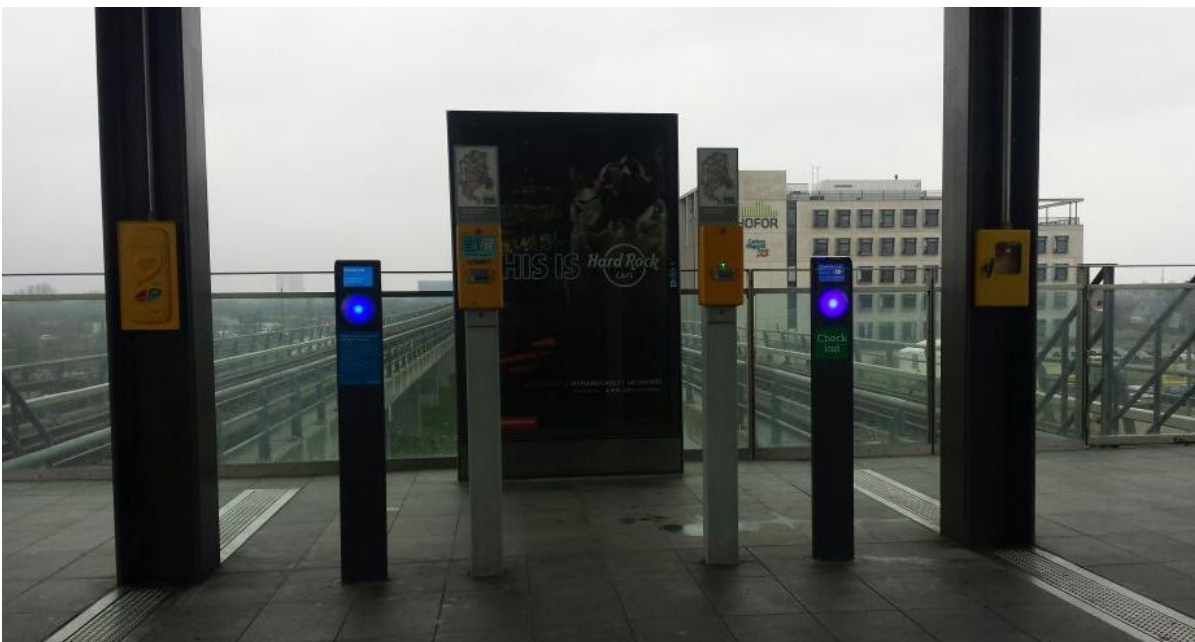
Since it has been possible to buy tickets and also have been possible to read a manual in English on Bella Center station, we maintain our claim on both fines of 750 DKK each."

Til dette har klageren anført:

"Please see attaches pictures of the station showing – NO SIGNS IN ENGLISH

The pictures you have sent are not of the same station or if it is those signs were NOT there when we visited Denmark. "

Klageren har vedhæftet følgende billeder:





Til dette har Metro Service svaret:

"Hermed vores kommentarer til klagers påstand om, at vores foto af billetmaskinen på Bella Center station skulle være taget på en anden station, samt at udstyr/skilte skulle være blevet ændret siden kontrolafgifternes udstedelse.

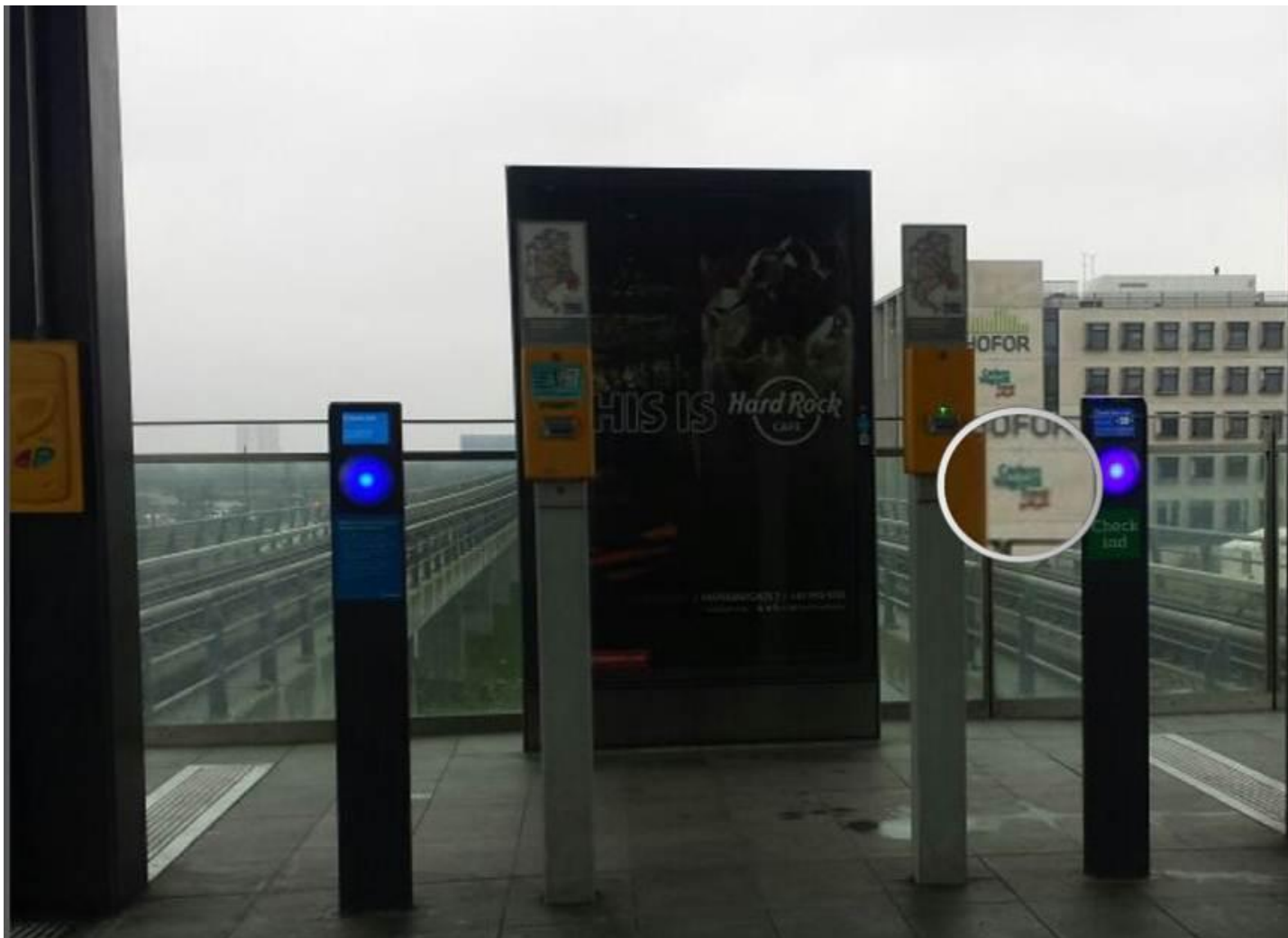
The first picture below is our photo from Bella Center station. The second picture below is the photo taken by the complainant. In both photos we have enlarged the sign on the building in the

background. The sign says 'Carlson Wagonlit Travel' which is a company that resides in that specific building. The ticket machines have been placed on the same spots for years and none of the signs/instructions have been altered since the complainant visited Bella Center station in December 2014.

Also, there have been instructions in English for years."

Metro Service har vedhæftet følgende billeder:





Til dette har klageren anført:

*"**Billetter machine** was NOT on the station when we visited – neither was that **white board sign** shown in the picture "*

Hertil har Metro Service svaret:

"In response to the recent inquiry from the complainant in the above case, we must insist that the ticket machines at the Bella Center Station has stood in the same location ever since the station opened in 2002.

The same applies to the information boards although these have been replaced in the meantime due to updates and alignment (such as the price increases, etc.), but the signs / boards have not been changed/replaced in any way since December 2014.

*Inserted please find a link from the opening of The Metro in 2002
<http://www.kongper.dk/metro1.htm>"*

Til dette har klageren anført:

"It's their word against mine and I am not a liar. I have taken pictures from all around the station and sent them over. No signs were in English."

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 DSB, Movia og Metro:

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. (...). Der er også mulighed for at købe rejsehjemmel i selskabernes betjente salgssteder inden for åbningstiden samt på www.dsb.dk og www.moviatrafik.dk. (...).

Selskaberne tilbyder også rejsehjemmel via mobile enheder. Ikke alle mobilselskaber tilbyder denne service, og på visse steder og tidspunkter har ikke alle mobilselskaber den nødvendige dækning. Nærmere information, om hvordan og hvor der kan købes rejsehjemmel, findes på selskabernes hjemmesider.

2.3 Generelle principper

(...). Kunden skal have gyldig rejsehjemmel til hele rejsen. Det er kundens ansvar at sikre sig dette.

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.

2.6 Kontrolafgift

Kunder, der ikke på forlangende viser gyldig rejsehjemmel, herunder korrekt ind-checket rejsekort til deres rejse, skal betale en kontrolafgift. (...). Kontrolafgiften udgør 750 kr. for voksne og 375 kr. for børn og hunde.

Den konkrete sag:

Hverken klageren eller hans partner kunne ved kontrol af deres rejsehjemmel i metroen forevise gyldig rejsehjemmel. Kontrolafgiften blev derfor pålagt med rette.

Således som sagen foreligger oplyst, navnlig på grundlag af de indsendte billeder, lægger Ankenævnet til grund, at årsagen til, at klageren ikke kunne finde tilstrækkelig information på engelsk om, hvordan man køber billet, var, at han alene kiggede på klippemaskinen og på rejsekortsstanderen og således ikke på billetautomaten. Det lægges endvidere til grund, at der ved klageren og denne partners besøg i København den 15. december 2014 var opsat en billetautomat på Bella Center st.

Der foreligger herefter ikke sådanne særlige omstændigheder, at klageren skal fritages for kontrolafgiften.

Ankenævnet træffer herefter følgende

AFGØRELSE:

Metro Service er berettiget til at opretholde kravet om klageren og dennes partners betaling af kontrolafgifterne på i alt 1.500 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 23. juni 2015



Tine Vuust
Nævnformand