

AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

Journalnummer: 2015-0054

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

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

Klagen vedrører: Tre kontrolafgifter på hver 750 kr., i alt 2.250 kr. Tog kvittering i stedet for billetterne i billetautomaten.

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

SAGSFREMSTILLING:

Klageren reklameret til indklagede: Den 21. februar 2015

Klagegebyr modtaget i ankenævnet: Den 4. marts 2015

Sagens omstændigheder:

Klageren og dennes familie er bosiddende i England, men var på ferie i København den 21. februar 2015, hvor de rejste med metroen fra Kongens Nytorv i zone 01 i retning mod Lufthavnen st. i zone 04. Forinden havde de købt, hvad de troede var tre billetter i en billetautomat.

Efter klageren havde konstateret, at man ikke kunne betale med kontanter i billetautomaten, anvendte klagerens datter sit kreditkort. De medtog fra billetautomaten en talon og gik ud fra, at der var tale om de tre billetter, idet der på denne stod 108 kr. Talonen var imidlertid en kreditkortkvittering, hvorpå det fremgik, at betalingen var blevet afvist:



Klagerens søn havde desuden betalt for to yderligere billetter til sig selv og sin kone med sit kreditkort. Denne betaling var gået igennem.

Efter metroen havde forladt Christianshavn st. var der kontrol af passagerernes rejsehjemmel, hvorpå klageren, dennes kone og datter blev pålagt en kontrolafgift på 750 kr. hver, idet de ikke kunne forevise gyldig billet.

Stewarden har på klagerens kontrolafgift noteret "pax havde forsøgt at købe billetter, men hans kort var blevet afvist i TVM og han viste mig 'afvist-kvitteringen' troede at det var billetten. hans partner var i samme situation (...).

Samme dag anmodede klageren Metro Service om annullering af alle tre kontrolafgifter og gjorde følgende gældende:

"Fare Evasion Tickets – xxxx

These were issued to members of my family early this morning as we were travelling from Kongens Nytorv to Lufthaven – leaving Copenhagen after a celebratory four nights away.

Neither I nor any of my family have ever deliberately evaded paying for travel tickets anywhere and we did not do that this morning.

We were travelling in a group of 5 – myself, wife and daughter, and my son with his wife. This morning at Kongens Nytorv I went to one machine to pay (with a 100kr bill ready for the machine) and my son to another to pay on a card. He paid for two and walked off and after selecting 3 tickets I realised the machine did not accept cash, my daughter jumped in and put her card into the machine.

As she took out her card and then she delivered card (thought to be ticket) out of the machine I asked her if that was the ticket for three. She glanced down and just saw the 108kr quoted and said yes.

We got on the metro as a family thinking we had paid for 5 journeys to the airport.

When the enforcement officer identified the problem we offered to get off the metro at the next stop, buy the tickets we thought we already had before carrying on to the airport.

Given that your officer accepted it was a genuine mistake this would have been a solution that resolved the matter without any further action or distress.

Instead our embarrassment continued as we were required to show our passports and give information, and one of our family became upset as she felt responsible.

Unfortunately after a good few days in Copenhagen celebrating two family birthdays the conversation on our return home was dominated by this incident and not as it should have been all the good times we had.

Please excuse me as I type this – I am tired from an early start, a long journey and the trauma of what has happened.

I absolutely expect to pay for our journeys this morning, but request in good faith that the three fare evasion tickets are withdrawn.

If you are not prepared to do this please withdraw the other two and leave the one in my name outstanding.

I understand individuals have responsibilities, but as the head of our family I should take responsibility for what happened this morning – I was going to pay and should have checked and made sure we had the right tickets for the journey –not my wife and daughter.

I look forward to a favourable and early response from you – so we can forget about this incident and remember all the positive encounters we have had with Copenhagen people this last week. "

Den 23. februar 2015 fastholdt Metro Service alle tre kontrolafgifter og gjorde 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 before boarding the train.

It is your responsibility to ensure that your ticket or clip card is correctly stamped (date, time and zones) and that it is valid for the entire journey.

We do not accept subsequent presentation of tickets or clip cards, as these are not personalised with a name or a photograph of the ticket holder. Furthermore, we do not accept bank statements as proof of purchase.

It is clearly stated on the ticket whether it is an Adult-, Bicycle-, Child- or Supplementary ticket. On the receipts printed by our ticket vending machines, it is clearly stated that it is a receipt and not a

ticket. Furthermore, the receipt will clearly state if the purchase was cancelled, for one reason or another."

Den 23. februar 2015 skrev klageren følgende til Metro Service:

"I am really disappointed with your response, which appears to be a standard response which does not reference our specific situation at all. It also shows no empathy for our situation and no acknowledge of my offer to take responsibility and for the other two fines to be withdrawn – the biggest issue for us is being labelled as fare evaders which makes us feel likes cheats and criminals.

In your response you could have at the very least accepted that in this case we did not genuinely try to evade payment of the fares.

When we arrived in Copenhagen four days previously I paid 180kr cash into a machine at the airport for five tickets. I was solely responsible for that and none of the other four were in anyway.

As we travelled back to the airport on Saturday I went to pay 108kr cash for three of us. I was solely responsible for that and therefore consider it excessive that all three of us were embarrassed and humiliated in front of the other passengers, driving my grown-up daughter to tears. Some of the other passengers were clearly embarrassed – I guess embarrassed by the way that visitors to Copenhagen were being treated in what was clearly a genuine mistake.

I repeat that as soon as we realised the problem we offered to get off at the next stop and buy the tickets we thought we had already. If your enforcement officer had been able to show some consideration and allowed this to happen the situation would have been resolved without the distress and anxiety we have been caused.

In our stay in Copenhagen we found everyone very welcoming, but our view of Copenhagen and it's people has been tarnished by what happened. If you had read my complaint and responded more positively you could have helped to turn that around, but it appears your fines are more important to you than doing the right thing for your customer.

At church on Sunday morning I was asked if I would go back or recommend Copenhagen. Before this incident the answer would have been a definite yes and we were already talking about coming back with friends. The answer on Sunday was never.

Our stop in Copenhagen was wonderful until we became labelled as fare evaders. The trip was to celebrate forthcoming 50th birthday of my wife and started on my daughter's birthday (the one who ended up in tears). The trip and our double celebration has been spoilt by your inflexibility and the way your enforcement works.

I have in various roles worked in enforcement and I absolutely support all enforcement agencies in identifying and dealing with the cheats and criminals that try to get services for nothing, but education, understanding flexibility in situations like ours must be present.

I ask you to please reconsider your decision and I give you time to do this before I escalate my complaint to the Ankenævnet.

I cannot and will not let this matter rest until you have now removed the label of fare evaders that myself and my family have been unnecessarily given from all three of us. I specifically ask you to do this before this Thursday as that is my wife's birthday and I do not want this hanging over us then.

On the documents given to us by the enforcement officer there are no names and I took them from my family in the presence of the officer. Please confirm which ticket is for myself (XX), YY and ZZ.

I am hoping for a more positive and human response to my complaint."

Hertil svarede Metro Service den 25. februar 2015:

"We have evaluated your case again, however we have not found grounds to alter our decision, and the fine will therefore be maintained.

Considering the above, you will be charged the full amount of the fine, which we request that you pay as soon as possible.

We are sorry that our staff did not live up to your expectations. However the stewards are supposed to issue an evasion fare ticket to all passengers that are not able to show a valid ticket when asked. All handling of inquiries must go through Customers service in writing."

Til dette anførte klageren følgende:

KUNDENS BESKRIVELSE

Follow-up to Thank you for your response 25/2 and for considering my complaint. I am asking for the tickets for my wife and daughter to be withdrawn and as a gesture of goodwill, even though I disagree with any of the tickets being issued, I will accept and pay mine. My family were your customers - between us we made 10 journeys paying for 7 of them and mistakenly thinking we had paid for the other 3. Do you really want to treat your customers/visitors like this?

Hertil svarede Metro Service den 26. februar 2015:

"We have evaluated your case again, however we have not found grounds to alter our decision, and the fines will therefore be maintained.

Considering the above, you will be charged the full amount of the fines, which we request that you pay as soon as possible. (...)

We will not respond to any further complaints regarding the above fines."

Til anførte klageren samme dag følgende:

KUNDENS BESKRIVELSE

About fines [redacted] I am sorry with your ongoing negative responses and statement that you will not respond further - more bully tactics? Please provide me with the information I requested on 23/2 and please also give me with a name, position and e-mail of someone senior in at Metro who will look beyond the regulations at our case. I cannot escalate the matter to Ankenævnet as download from website contains possible virus. From a very sad and frustrated customer.

Hertil svarede Metro Service den 2. marts 2015:

"As we have informed you before, we have found no grounds to alter our decision, and the fines will be maintained.

If you do not agree, you will have to take further complaints to Ankenævnet for Bus, Train and Metro, www.abtm.dk . This is not a bully tactic – that is how things are done in Denmark."

PARTERNES KRAV OG BEGRUNDELSER OVERFOR ANKENÆVNET:

Klageren: Ønsker alle tre kontrolafgifter annulleret og har til støtte herfor gjort følgende gældende:

"My complaint is about my family's experience on the Metro on Saturday 21st February 2015 and the Metro customer service's failure to resolve the matter in a positive/customer focussed way. I believe the action of the Metro enforcement officer, later supported by customer service, was inappropriate and the resulting penalty action taken was excessive. I also believe the Metro, through this incident, has done a dis-service to Copenhagen, the people and the city the Metro is meant to serve.

Background information

Five of us from our family arrived in Copenhagen for a city break for a double birthday celebration. It was the first time for a number of years that we have all been away together as a family and we chose Copenhagen because none of us had been there before. The family group was made up of myself, my wife, my daughter, my son and his wife. We were a professional and responsible group with two teachers, one doctor and the other two working in schools as well.

We arrived on the Tuesday evening and as a group left the airport to catch the metro into the centre of Copenhagen. I had some kroner currency on me and used the ticket machine inside the metro station to buy five of the three zone tickets costing 180 kroner to take us into the centre.

I was very impressed with the metro system and particularly the openness of it – something that I would never try to take advantage of.

I was solely responsible for buying the five tickets for the journey into Copenhagen.

During our time in Copenhagen we were impressed by the very welcoming and understanding nature of the people; our experience was very positive.

We ate out at least once a day during our stay. On the first evening as it was my daughter's birthday that day I paid for the meal. Even though each of us consumed the food and drink I was solely responsible for payment of the bill. Had there been a problem with paying I would have expected the focus to be on myself alone and I would have sorted out an alternate way of paying as soon as I became aware of the problem.

As a group we had no problem with either paying for anything or with anyone until our return journey on the Metro system.

The incident on Saturday morning

We left our accommodation at 7.10am which was an early start for us – we were tired and also rushing a bit in order to get to the airport and get settled before our flight.

We walked into the metro station at Kongens Nytorv – my son went to one machine to buy two tickets and I went to another to buy three, for myself my wife and my daughter.

I approached the machine with kroner currency ready in my hand and expected to pay 108 kroner for the three tickets. It was only when I had selected the options for three tickets for three zones that I realised that the machine did not accept currency but was card only. I had not changed the display to English language as I knew what to do and selected the right items.

My son and wife were walking off having got their tickets and my daughter who had her purse to hand took out her debit card and processed it in the machine. She removed the card and the white slip/receipt that the machine produced.

As we were catching up with the others I asked my daughter if that ticket covered all three of us – she glanced down and seeing the quoted 108kr said yes.

At that point and until we were told otherwise we believed we had paid for five tickets back to the airport, my son two and myself three.

I accept responsibility for what we soon learnt had been a mistake – in the same way I was responsible for buying the five tickets when we travelled from the airport on the day we arrived.

Just a few moments into the trip we were approached by an officer checking tickets and it was only after my daughter produced from her pocket what we believed was a ticket for the three of us that we realised the mistake and the slip was a debit card reject slip (copy below).

Even though the slip was in Danish I accept it had printed on it 'this is not a ticket'. Had we seen this or had the screen been in English we would have understood and not left the ticket machine until we had bought the three tickets needed.

We explained the situation to the officer and my son who was with us showed his tickets to the officer to show our intentions as a family to pay.

The officer initially suggested the slip was from a transaction before ours but I explained I had seen the slip produced after my daughter had inserted her debit card. We have no idea why the payment was declined as the card has been used successfully before and after wards.

We immediately offered to get off the metro at the next station and to buy the tickets we thought we had. The enforcement officer understood our situation and acknowledged it was a genuine mistake.

Would he allow us to get off at the next stop and go and buy the tickets, or accompany us off to show us how to use the ticket machine, or allow us to continue and to resolve the matter at the ticket office at the airport station?

No - the enforcement officer instead proceeded to treat us as tickets evaders. It was embarrassing for us and others around to have our details taken and our passports photo'd.

It was embarrassing to have my grown-up daughter in tears because of the complete lack of empathy and flexibility from the enforcement officer.

The officer was joined by a colleague who took the details from I think my daughter, with the original officer taking details from myself and I think my wife. The second officer left us and the first to complete his job. He was professional throughout and we were fully compliant to his requests throughout.

Having reached the airport stop the officer got off the metro with us to finish his explanation of what we need to do next.

My argument is that the enforcement officer should have had the flexibility to deal with what was obviously and acknowledged as a genuine mistake in a different way to the ticket evasion process.

The enforcement officer could have either allowed us to step off the metro at the next station to buy tickets and if he didn't trust us could have accompanied us to the machine or ticket office at our destination – and helped us by making sure we could use it.

If he had done this it would have in our experience over the previous four days been more like the Danish way of doing things.

I convinced myself that the enforcement officer had no flexibility and had to ticket everyone he found without a ticket regardless of the circumstances. So when I arrived home on the Saturday I raised a complaint to the Metro customer service people.

The enforcement officer said he would be completing a report to them and I can only assure that would report the situation as he found it and his acknowledged view that it was a genuine mistake on my part.

I also hoped it would state that throughout the encounter we were fully compliant with his requests and that we did not argue with him at all.

As part of my representation to the customer service team I questioned why more than one person was being held responsible when one person, myself, was responsible for trying and failing to properly but the tickets.

Even though I disagree with any of the tickets being given in this situation I offered as a gesture of goodwill to accept and settle mine and for my wife's and daughter's to be withdrawn.

Would they accept that as a family we made ten journeys on the Metro, paid for seven of them and made a genuine mistake in thinking they had paid for the other three?

Would they understand the importance of customers who are also visitors to city?

Would they withdraw the evasion tickets and apologise for the way we have been treated?

Would they take up my offer to withdraw the other two and hold me solely responsible as I was for the problem?

No – none of these.

They have not just refused to withdraw any of the tickets but also failed to show any understanding/empathy for us in their responses. I suspect they view me as a nuisance.

They have failed to, as the officer did, to recognise there was a genuine mistake or to show any empathy to our situation. They continue to make us feel like cheats and criminals.

I understand there is a process for anyone found to be travelling without a ticket – but feel under the circumstances the issuing of any tickets to be unreasonable and unfair. They appear to be more interested in money/fines than care and service to their customers/visitors.

Whilst I strongly disagree with any evasion tickets being issued I cannot understand the issuing of three tickets. There was one person responsible for the genuine mistake and that was myself. I have offered as a gesture of goodwill to accept my evasion ticket and pay for it if the ones for my wife and daughter are withdrawn.

What is really hurting us is that we were treated like cheats and criminals and not like customers and visitors to your country. This was so different to all of our previous experiences during our stop in Copenhagen.

Definition of evade in English: Escape or avoid (someone or something), especially by guile or trickery

I emphasise that we thought we had paid for and were carrying a ticket for three people when we boarded the metro.

I would never use guile or trickery in order to avoid paying for any service so to be labelled as our family has as ticket evaders is insulting and has caused us much anxiety over the last few days.

I absolutely support robust enforcement to catch people who are deliberately trying to get away with not paying for goods or services. I have been involved in customer service and various en-

forcement roles over 30 years in a different industry and have experienced that education and understanding in situations where genuine mistakes have been made is equally as, if not more, important that enforcement.

We were a group that any capital city would welcome and both benefit from having stop there as well as our recommendations to other professionals that we work with and know. I estimate we spent 25,000 kroner (excluding flights) on the break – that is money into the local economy.

Discussion over dinner the evening before was about our experience of Copenhagen and whether we would return. Myself and my wife were absolutely going to come back to Copenhagen and bring some friends with us, possibly as early as later this year.

This has soured our whole experience of Copenhagen and as I feel at present there is no way that my wife and myself will ever come back to Copenhagen. That is a real shame for us as well as for Copenhagen in losing our custom.

Not only were we embarrassed during the incident but it was clear from the reaction of others around that they were embarrassed that visitors were being treated in that way by the enforcement process.

Since coming back home we have all been asked many times how we found Copenhagen and regrettably we have not been able to enthuse as we should about what otherwise was a great time in a great city and with great people.

My unease at this situation grows as does my bitterness to how we have been dealt with and sadly my increasing negative view of Copenhagen.”.

Indklagede: Fastholder kravet om betaling af alle tre kontrolafgifter 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. The above mentioned information is available on 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.

In case the passengers have questions, need assistance or guidance for buying the ticket, the call point on the ticket vending machine can be used. The call point will connect the passenger directly to an operator in our control tower, which is manned 24 hours a day.

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. In case no valid ticket – for whatever reason - cannot be presented on demand our staff are instructed to issue a fare evasion ticket.

In a case like this - where a credit card is rejected - it is possible to try to buy tickets by using one of the other 2 machines at the station (at Kongens Nytorv 3 ticket vending machines are available).

*The complainant writes that his daughter glanced at the slip/receipt - has his daughter look at the slip/receipt carefully she would clearly have been able to see the text printed at the top "**NOT A TICKET**".*

The complainant, his wife and his daughter have each received a fare evasion ticket, as they could not present valid tickets when asked for it.

A fare evasion ticket is personnel and this is why our staff are not allowed to issue one person's fare evasion ticket in another person's name – this is why the steward could not issue all 3 fare evasion tickets to the complainant.

We must point out that we do not take into consideration whether the lack of a valid ticket is due to a conscious or unconscious act. Since we want to treat all passengers equally, we only consider the fact that it is the customer's responsibility - before boarding the train - to secure a ticket, which can be presented on demand.

It is evident and undeniable that the complainant, his wife and his daughter has entered the metro without valid tickets which is why we find the fare evasion tickets correctly issued. According to the metro travel regulations, passengers must hold a valid ticket, and be able to present it upon request."

Hertil har klageren anført følgende:

"Before I respond though I need to highlight something that I am really concerned about - the forwarding of the photos of our passports which give between them very full copies of our identities. I do not understand why it was necessary for the Metro to include these and I am concerned as to how secure the systems are for each recipient of these pictures. I do not see why this risk was necessary because our identities have not been questioned at all, either by ourselves or by the metro.

Please can you provide an assurance that all of the e-mail and storage systems for everyone who has received these images are secure and if possible that where the images are not absolutely critical to be kept that they have been deleted.

Now back to the response from the metro - it is clear from the metro's response that they have fully followed both their policies and procedures - and it seems from the response they are proud of this fact.

I have never denied that we entered the metro without valid tickets and in my representation to you I clearly proved and accepted this fact.

Had my daughter, or myself, looked at the slip/receipt more carefully we would have picked up the mistake and taken action immediately to buy the tickets we thought we had done. I acknowledged

in my representation as I provided a scanned copy of the slip with 'not a ticket' on it - it is something that makes me feel really stupid, incompetent and where I have let my family down. There is no need for the metro to re-iterate this - this has gone over in my mind many times since the incident.

My daughter's attempt to pay was by debit card and as stated in my representation we had the means to pay, and thought we had.

I note that the metro '.....do not take into consideration whether the lack of a valid ticket is due to a conscious or unconscious act. Since we want to treat all passengers equally...'

This is what has really upset me and my family throughout the incident and the metro's response since. We feel as if we have been treated as if we are cheats and criminals, as if we had deliberately set out to make that journey without paying for it. I would hope it is clear from my representation this was a genuine mistake on our part. Something that the metro are clearly not interested in either considering or acknowledging as they have again failed to show any empathy or understanding for our situation.

They may be proud about sticking to their policies and procedures but I sincerely hope they are not proud about how their treatment of us has made customers and visitors to Copenhagen feel - they seem to not care.

I note their response about the need to issue three tickets. If after all attempts to get the tickets withdrawn are exhausted they need to be paid they will not be paid by three people - they will be paid by myself as the one person responsible for what happened.

The good news for the metro is that I will pay and ignore all of the advise other disgruntled passengers have posted on-line about not paying. So if required the metro will get 3 x 750 DKK from myself.

Please accept my apologies for the emotion in this representation, regretably the incident and the way we have been treated has greatly soured what had been an otherwise wonderful time in Copenhagen.

I look forward to receiving the outcome of your review of this case and would hope that even at this late stage the metro would be able to reflect and respond with some understanding for us as customers, visitors and people."

Hertil har Metro Service svaret:

"The complainant has a point regarding us sending copy of the passport which is why we immediately have decided to change our procedure. From now on we will either exclude this kind of documents/pictures when answering the Board of Appeal or ensure that the number on passport, driver license etc. and date of birth are made unreadable.

As the metro is operating as an open system it is always the passengers own responsibility to make sure that a valid ticket can be presented at any time if the steward asks for it.

When our staff are doing inspection, they are instructed to issue a fine in case a valid ticket cannot be presented.

As the metro is operation as an open system it is always the passengers own responsibility to make sure that a valid ticket can be presented at any time if the steward ask for it.

Based on the presented facts we see the fines issued on a correct basis, as the complainant, his wife nor his daughter could show valid tickets when asked by the stewards."

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 fællesrejseregler for bus, tog 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.

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.

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:

Den kollektive trafik i Hovedstadsområdet kører efter et selvbetjeningsprincip, hvor det er passageren, der som udgangspunkt bærer ansvaret for at være korrekt billetteret.

Det fremgår endvidere af de fælles rejseregler for bus, tog og metro, at 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, idet der ellers kan udstedes en kontrolafgift.

Klageren, dennes ægtefælle og datter kunne ved kontrol i metroen ikke forevise gyldige billetter, idet de alene var i besiddelse af en kreditkortkvittering på den afviste betaling.

Kontrolafgifterne blev herefter pålagt med rette.

Om end det kunne fremstå mere tydeligt visuelt, er der en tekst på talonen med ordene "Creditcard receipt, not a ticket".

Ankenævnet finder herefter, at der ikke har foreligget sådanne særlige omstændigheder, at klageren, dennes ægtefælle og datter skal fritages for at betale de pålagte kontrolafgifter ved rejse uden gyldig rejsehjemmel, eftersom de ikke havde betalt for rejsen.

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.

Ankenævnet finder slutteligt anledning til at foreslå Metro Service, at den information, som fremgår på dansk nederst på talonen om, at købet er "afvist", også skal fremgå på engelsk for at gøre det endnu tydeligere for kunder, som ikke forstår dansk, at talonen ikke er en billet.

Ankenævnet træffer herefter følgende

AFGØRELSE:

Metro Service er berettiget til at opretholde kravet om klagerens, dennes ægtefælle, samt datterens betaling af de tre kontrolafgifter på i alt 2.250 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
Nævnensformand