

**AFGØRELSE FRA  
ANKENÆVNET FOR BUS, TOG OG METRO****Journalnummer:** 2013-0144**Klageren:** XX  
2800 Kongens Lyngby**Indklagede:** Metroselskabet I/S v/Metro Service A/S  
**CVR:** 21 26 38 34**Klagen vedrører:** Kontrolafgift på 750 kr. Kørte med den forkerte metrolinje.**Ankenævnets  
sammensætning:** Nævnensformand, landsdommer Tine Vuust  
Bjarne Lindberg Bak  
Ingrid Dissing  
Lise Bjørg Pedersen  
Torben Steenberg**SAGSFREMSTILLING:****Klageren reklameret til indklagede:** Den 31. maj 2013.**Klagegebyr modtaget i ankenævnet:** Den 6. juni 2013**Sagens omstændigheder:** Klageren flyttede i maj måned 2013 til Danmark på Frederiksberg og rejste hver dag til sit arbejde i Lyngby. Han var derfor i besiddelse af et periodekort gældende til zonerne: 01-02-30 og 41.

Den 29. maj 2013 skulle han med metroen fra Nørreport til Njalsgade på Islands Brygge i zone 01 men var ved indstigning ikke opmærksom på, at pågældende metrolinje ikke kørte til Islands Brygge men i stedet med retning mod Lufthavnen.

Først da metroen kørte ind på Øresund Station i zone 03 blev klageren opmærksom på, at han var taget med den forkerte metro. Idet han steg af metroen på Øresund station, var der kontrol af hans rejsehjemmel, hvorefter han blev pålagt en kontrolafgift på 750 kr. for manglende zone.

Den 30. maj 2013 anmodede klageren om annullering af kontrolafgiften.

Metro Service fastholdt kontrolafgiften den 31. maj med henvisning til selvbetjeningsprincippet.



## PARTERNES KRAV OG BEGRUNDELSER:

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

I am a new resident in Denmark, Copenhagen (since the beginning of May - for more information, kindly see the attached document "CPR no."). I had a very unpleasant and embarrassing experience with one of Metro's ticket controller on 29.05.2013.

I hold a monthly 4-zoner ticket (no. 6438557) valid from 8 May 2013, which I used every day for travel between Frederiksberg C (where I was temporarily staying at the time of the incident) to Lyngby where I work.

I traveled from Lyngby station to Njalsgade 72C, Islands Brygge to have my biometric features recorded as a new resident (that can be checked at The Danish Agency for Labour Retention and International Recruitment). I came to the Nørreport station and I mistakenly boarded Metro train no. 2 instead of M1, as I was not aware that both trains stop on the same platform. The moment I came to the station M1 was leaving and I automatically took the next train that followed immediately afterwards. Unfortunately, that was the wrong train (M2). When I realized that I was in a wrong train, it was pulling into the Øresund station. I immediately exited the train. At the same time the controller was checking the tickets. I showed him my 4-zoner ticket when I was already outside the train and he exited the train after me stating that I did not have a correct ticket. I could not understand what was wrong with my ticket and I asked him to explain it to me. At the same time I informed him that this was the first time that I used the Metro and also that I took the wrong train by mistake. I also showed him the documents with the address that I was supposed to go to as well as the letter with the CPR number where he could see that I was a new resident. He refused to hear my arguments and excuses and immediately started writing a fine. I apologized many times for the honest mistake and wanted to understand what was wrong with my 4-zoner ticket anyway, but he did not wish to discuss about it with me.

I was really shocked and embarrassed with the entire situation, especially because I had additional 3 klipkorts (4 zones and 2 zones) on me that I would have used had I known that this was required. As I mentioned, unfortunately I entered the wrong train and I tried to explain it to the controller many times but he would not want to hear me. I can understand that he was doing his job, but anyone can make an honest mistake especially a foreigner such as myself. I have to say that this is the first time that I used

Metro in Copenhagen and was not aware that a monthly 4-zoner ticket could not be used in Metro. Also, nobody explained that to me when I purchased it at the 7 Eleven at the Lyngby station.

Luckily, another controller came by and told me that I should have purchased an additional ticket for Metro. Of course, I would have done so had I known that my monthly 4-zoner was not good for use in Metro. He also advised me to contact Metro Service and your service and explain what happened. I thank him for that. At the end I was given a fine of DKK 750 by the first controller.

Sir or Madam, I would really appreciate if you could consider accepting my sincere apologies for the mistake I made and cancel this fine of DKK 750. I will be more attentive next time I use Metro to avoid making the same mistake again.

I can also come to your office at your convenience and explain the incident to you one more time in person as well as show you my monthly 4-zoner ticket and klipkorts that I had with me at the time of this, to me, embarrassing moment.

I appreciate your understanding and positive reply in advance.

As mentioned in my letter that I sent you earlier, it was not my intention to travel by Metro (or any other means of transportation) without a proper ticket. I believe that I explained in my letter what went wrong. It is also correct that I could have left the train earlier, but as mentioned earlier, I was not paying attention to the train stations until I realized that I was in the wrong train/line. As you can imagine I was in a hurry, because I had an appointment at 15:30 at Njalsgade 72C, Island Brygge station and I was focused on double-checking the documents that I had to provide to the Danish Agency for Labour Retention and International Recruitment.

I really find it hard to believe that you would assume that a person who travels with a monthly 4-zoner ticket and three additional klipkorts (2 ocs of 4-zoner klipkorts one for 2-zoner klipkort) would purposely use public transport without a validated ticket. I would also appreciate if you checked with the Danish Agency for Labour Retention and International Recruitment at what time I had my biometric features recorded. Your controllers could also see me boarding the right train (towards the Island Brygge) after I had been fined.

It is correct that I lived in Denmark in 2007, but in Esbjerg, that can also be easily verified. For your information, I spent only a few weeks in Copenhagen and as mentioned before I had never used the Metro train. I understand that I made an honest mistake and it is obvious that it was not my intention to break the law."

**Indklagede:** Fastholder kravet om betaling af kontrolafgiften og har til støtte herfor gjort følgende gældende:" Like other means of public transportation in the metropolitan area, The Metro operates according to a self-service system, where it is the passenger's own responsibility to ensure that he or she has a valid ticket before commencing a journey.

In cases when valid ticket or card cannot be produced when asked for, passengers are obliged to accept a fare evasion ticket (adult = dkk 750,00). This rule is a fundamental principle incorporated in the self-service system that applies to any public means of transport in the Hovedstadsregion. This also appears from the folder 'Metro'ens Rejseregler' which can be found at our webpage [www.m.dk](http://www.m.dk) . Moreover this information is available at all stations.

As it is clear from the above mentioned 'rejseregler', it is always the responsibility of the passenger to ensure that valid ticket or card is at hand prior to commencing the journey.

When using a monthly pass this only allows the passenger to travel in the zones, which are mentioned on the "Stamkort" (the one with the picture and name).

In this case the monthly pass allows the passenger to travel in zones: 01, 02, 30, 41.

If the passenger want to go into zones not included in the monthly pass, the passenger need to buy a ticket or use a clipcard for the extra zone(s).

The complainants monthly pass was checked after he has left Lergravsparken station (zone 1) going to Øresund staion (zone 3).

Information about lines and stations are available as follow:

- ❖ At the station there are digital displays telling which line and terminus on the next train – on the stations loudspeaker this is also announced.
- ❖ In the train there are digital displays telling which station is the next one and where the train is going to (name of the end station).
- ❖ Between each stations there are continuously made call over the loudspeaker in the train telling which station is next and which station are the terminus.
- ❖ In all trains there are at least 20 gray graphic signs that shows the 2 metro lines (M1 and M2), where each line run and the zone numbers the individual station is located in – se the picture below:



After passing Christianshavn station the Metro divide into 2 different directions. M1 runs to Vestamager and M2 runs to the Lufthavnen.

In this particular case the complainant would have had the opportunity to inform himself (were the train was headed and what station would be the next) and based on this information concludes that the train was going in a wrong direction if he wanted to go to Islands Brygge.

After leaving Christianshavn station the complaint had the opportunity to get off at either Amagerbro station or Lergravsparken station where the monthly pass was still valid, as both stations are in zone 1.

If a passenger have question of any kind related to the Metro, there are yellow call points available at all Metro stations and all Metro trains. This call points are answered by an operator in our control room which are manned 24 hours a day. This operator is able to answer any question regarding ticket, operation, elevators etc.

In case the passenger has trouble buying a ticket there is a call point on the ticket vending machine. This call point will also get the passenger in direct contact with an operator in our control room. This operator can guide the passenger or se to that a steward is sent to help buy the ticket.

Information of the yellow call points is shown at the info walls at all metro stations.

The text below is printed on the ***Metroinformation***:



Henvendelser til Metroens kontrolrum kan ske fra opkaldsstedet – tryk INFO. Ved akut fare – tryk ALARM.

Inquiries to the Metro control room may be made from the call point by pressing INFO. In case of emergency, press ALARM.



Rejser med Metroen kræver gyldig billet eller kort. Billetter eller kort kan købes i automater på alle stationer. Billetkontrol kan ske både under rejsen, ved udstigning og på stationen efter endt rejse.

Ved manglende billet udstedes kontrolafgift efter gældende regler.

Travelling on the Metro requires a valid ticket or travel card.

Tickets and travel cards are available from ticket vending machines at the stations.

Ticket control may be performed during the journey, when alighting and at the station after the journey has ended.

Passengers boarding a train without a valid ticket will be liable to pay a penalty fare.

Based on the above we maintain our claim regarding the fare evasion ticket.

The complainant states that he was a new resident which is also correct, as the complainant is registered arrived in Denmark on 31<sup>st</sup> of May 2013 - but according to the CPR-register he has earlier lived in Denmark for almost 9 month.

The complainant also states that the steward would not listen and would not discuss the situation, and refused to hear the complainants arguments and excuses.

Our staff are instructed to check if the passenger has a valid ticket or card – if a valid ticket or card cannot be presented when asked the steward are instructed to write out a fare evasion ticket no matter what might be the reason for the passenger not to be able to present a valid ticket or card and if the passenger do not agree to the issuing of the fare evasion ticket the passenger must contact Metro Customer service department who is handling this cases.”

## **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, 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, stk. 3, i bekendtgørelse om kontrolafgifter af 22. september 2006, fastsætter jernbanevirksomheden bestemmelser om kontrolafgift i forretningsbetingelserne.

Det fremgår af Metroens rejseregler (forretningsbetingelser), at passagerer skal have gyldig billet, gyldigt stemplet klippekort eller gyldigt månedskort fra rejsen begynder. Billet eller kort skal opbevares under hele rejsen og indtil Metroens område forlades. Billetter og kort skal fremvises til Metro Stewarden på forlangende. Billetkontrol kan ske både under rejsen, ved udstigning og på Metrostationen efter afsluttet rejse. 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 750 kr. for voksne

### ***Den konkrete sag:***

Klageren kunne ved kontrol i zone 03 ikke forevise gyldig rejsehjemmel, idet klagerens periodekort kun var gyldigt i zonerne 01 – 02 - 30 og 41.

Ankenævnet finder, at klageren i den givne situation havde tilstrækkelig mulighed for at orientere sig både på stationen og i metroen, og at passagerer selv bærer ansvaret for at sikre sig at være kommet med den rigtige metro, herunder i hvilken retning metroen kørte.

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

Ankenævnet bemærker, at pligten til at betale kontrolafgift ikke er betinget af, om passageren 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 og rejserute.

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 betales inden 30 dage jf. ankenævnets vedtægters § 15.

Da klageren ikke har fået medhold i klagen, tilbagebetales klagegebyret ikke, jf. § 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](http://www.domstol.dk), [www.advokatsamfundet.dk](http://www.advokatsamfundet.dk) og /eller eget forsikringssselskab om eventuel forsikringsretshjælp.

På ankenævnets vegne, den 23. september 2013.



Tine Vuust  
Nævnshoved