

**AFGØRELSE FRA  
ANKENÆVNET FOR BUS, TOG OG METRO****Journalnummer:** 2013-0448**Klageren:** XX  
Stocksund - Sverige**Indklagede:** Metroselskabet I/S v/Metro Service A/S  
**CVR:** 21 26 38 34**Klagen vedrører:** Kontrolafgift på 750 kr. for manglende stemping af klippekort.**Ankenævnets  
sammensætning:** Nævnensformand, landsdommer Tine Vuust  
Bjarne Lindberg Bak  
Ingrid Dissing  
Asta Ostrowski  
Torben Steenberg**SAGSFREMSTILLING:****Klageren reklameret til indklagede:** Den 13. maj 2013.**Klagegebyr modtaget i ankenævnet:** Den 3. december 2013.**Sagens omstændigheder:** Klageren er svensker og besøgte den 8. maj 2013 København, hvor hun rejste med metroen fra Lufthavnen til Kongens Nytorv.

Hun købte inden påstigning i Lufthavnen et 3-zoners klippekort med to klip. Hun klippede ikke klippekortet inden påstigningen, og blev ved kontrol kl. 10:50 pålagt en kontrolafgift på 750 kr. På kontrolafgiften noterede stewarden: "glemt at stemple kort, se foto". Der er herefter taget et billede af et ustempet 2-klips kort.

Den 13. maj 2013 anmodede hun Metro Service om annullering af kontrolafgiften og gjorde gældende, at hun ikke vidste, at hun skulle stemple klippekortet, hvorfor hun var steget direkte på metroen. Hun anførte videre, at der var dårlig information om stemping af klippekortet, og at der på en station som Lufthavnen burde være personale til at hjælpe turisterne med billetkøb.

Den 1. oktober 2013 fastholdt Metro Service kontrolafgiften med henvisning til selvbetjeningsprincippet og passagerens eget ansvar for at have gyldig billet til rejsen.

Klageren rettede atter henvendelse til Metro Service den 20. oktober 2013 og gjorde gældende, at hun forgæves havde forsøgt at stemple klippekortet, og af en medarbejder fra Metro havde fået besked om, at hun kunne stige om bord alligevel. En anden metromedarbejder havde så fortalt hende, at det måtte man ikke.

Metro Service fastholdt kontrolafgiften den 11. november 2013.

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

”

**I bought a ticket at Kastrup airport and tried to stamp it at the ticket box at the station. It didn't work and I asked one of Metros staff for help. He declared that it was OK to board the train regardless I did that and at Kongens Nytorv I was stopped by another one of Metros staff who declared that his colleague was in error and issued a penalty ticket.**

**I find it most disturbing that two of Metros staff have so totally different opinions on a subject which is so important for a public service company, namely customer relations.**

**I strongly object to this penalty ticket and asked you to declare it void.**

”

**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. The above mentioned information is also available in the folder Metro's travel rules (in Danish), which 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.

The complainant has received a fare evasion ticket as she did not validate her 3 zone, 2 journey clip card at the metro station at Copenhagen airport prior to boarding the metro. The card was purchased at the station, and the complainant informs us in her first correspondence with us on the 13<sup>th</sup> of May 2013, that she did not realise that she needed to validate the ticket. She assumed it was enough to have purchased the clip card and therefore boarded the Metro without validating the card.

In the second letter to us, the complainant mentions having asked a member of staff on the platform, who according to the complainant allowed her to travel, without validating the clip card. The complainant did not mention the incident with our Metro staff the first time she contacted us, and it was therefore not looked into, as she described a different situation when she first contacted us. It is therefore unclear to us, if the lack of validation of the clip card is because the complainant didn't know she had to validate the clip card, or if it is because she was unable to stamp the card in the machine.

For good measure we have looked into both scenarios described by the complainant. There are 2 ticket stamping machines placed at the airport metro platform. We have contacted our technical department and they have not registered any faults on either machine on the day in question.

We have not received a description of the mentioned member of staff, and have therefore not been able to find or ask the member of staff regarding the incident. The second letter, where the complainant mentioned a member of staff being involved, was only sent to us on the 20<sup>th</sup> of October 2013, after having received our reply on the 1st of October 2013.

In cases where a customer is unable to validate a clip card, or purchase another form of ticket at the station due to technical problems, our Metro staff are instructed to note the passengers full name, and thereafter inform the control room, that this specific passenger is allowed travel without a valid ticket. The member of staff is also required to inform the control room immediately of any faults on the equipment at the station. If the complainant had contacted a member of staff, regarding help with validating her ticket, the member of staff would firstly have attempted to help the passenger validate the clip card. If the member of staff was unable to help with this due to technical problems, then the above mention procedure would have been set in motion, in order for the passenger not to receive a fare evasion ticket.

We have looked at the control room logs for the day in question, and there are no such notes registered, regarding the complainant or any other passenger being allowed travel without a valid ticket. There are no faults registered on any of the ticket stamping machines at the station.

At the Metro Station in the airport, Metro staff are present all hours of the day in order to help passengers. If the Metro staff is temporarily unavailable and might be helping other passengers, the passenger can look at the information boards placed at all stations. The information boards contain information in Danish as well as in English. If the passengers still needs further help or guidance they are able to contact control room staff via our call points. Inquiries to the Metro Control room can be made from the yellow call points found at each station. Call points can also be found at every ticket vending machine. Passengers are able to contact the control room at all hours of the day, if they are in need of help or guidance.

### **Example shown below of the text on the back of a clip card (here a 2 zone card):**



On the back of the clip card information regarding the validity of the card can be found. It clearly states how long a validated card is valid for, as well as informing the card holder that the card needs to be stamped at the beginning of the journey in order to be valid.

**On the information boards, next to the zone map passengers can find information regarding the amount of stamps needed for travel in the different zones:**

**Klippekort :**  
**Voksen** **Barn**

Farve- zone	Blå 2	Gul 3	Brunt 4	Lilla 5	Orange 6	Turkis 7	Pink 8	Grå Alle	Barn 2	Barn 3
2	1 klip*								1 klip	
3		1 klip*								1 klip
4	2 klip		1 klip*						2 klip	
5				1 klip*						
6	3 klip	2 klip			1 klip*				3 klip	2 klip
7						1 klip*				
8	4 klip		2 klip				1 klip*		4 klip	
Alle	5 klip	3 klip	3 klip	2 klip	2 klip	2 klip	2 klip	1 klip*	5 klip	3 klip

It is clear when you follow the color coded table, that a 10 trip clip card needs to be stamped in order to be validated. Above in the diagram it is mentioned how many times a card needs to be stamped in the machine in order to be valid for the amount of zones travelling.

**Text from information boards found at every station:**

**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

**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**

Your dog must have a children's ticket. Smaller dogs travel for free in the Metro, if carried in a bag.

**Bicycle**

You can take a bicycle with you when you have bought a bike ticket, and when you travel outside curfew for bikes - that is all weekdays between 7:00-9:00 am and between 15:30-17:30 pm. In June, July and August, however, you can take your bicycle with you at all times, as long as you have a valid ticket also for the bicycle.

**Travel card**

When using a travel card in the Metro:

- Make a **Check-in** at the start of the trip on **The Blue Point**. **Check-in** is registered on the chip in your travel card, when the card reader returns a "ding" and an **OK** on the card reader screen.
- If you remove your travel card too quickly from **The Blue Point**, the chip is not registering your **Check-in**, and you will hear a "dong" and the message **Error. Please try again**.
- Make a **Check-in** whenever you change mode of transport
- Make a **Check-out** at the end of the trip and wait for the screen to show the cost of the trip and an **OK**.

If you do not make a **Check-in** at the start of the trip or when changing mode of transport, you do not have a valid ticket, and you risk getting a fine in accordance with applicable travel regulations.

If you forget to make a **Check out**, you will lose the prepayment.

As we have a clear procedure – for special situations - allowing passengers access without valid ticket, we find it highly unlikely, that the complainant should have been granted access without a valid ticket, without the steward having informed the control room, or reporting any failures on the clip card stamping machine.

We also find it peculiar, that the complainant changes argumentation from the first to the second letter, which makes it unclear what had really happened.

According to the metro travel regulations, passengers must hold a valid ticket, and be able to present it upon request.

We have checked the clip card stamping machines on the station on the day in question, where no failures are recorded.

Based on the above mentioned, we therefore maintain our claim towards the complainant regarding the fare evasion ticket of 750 DKK.”

## **BILAG TIL SAGEN:**

Kopi af kontrolafgiften.

Kopi af parternes korrespondance.

## **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.

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. Afgiften er et girokort, som kan betales via bank eller på posthus. Kontrolafgiften er samtidigt billet til vidererejse til den Metrostation, passageren oplyser som bestemmelsestationen. Kontrolafgiften er 750 kr. for voksne.

Fra de fælles rejseregler:

### **Gyldighed og brug**

Klippekortet skal stemples i en stempelautomat i bussen, på stationen eller i lokalbanetoget for at være gyldigt.

Så længe gælder klippekort:

2-3 zoner	1 time
4-6 zoner	1 1/2 time
7-8 og Alle zoner (9)	2 timer

**Den konkrete sag:**

Passageren skal på klippekort i henhold til forretningsbetingelserne og oplysningerne på kortets bagside inden afrejsen selv foretage en stemping på perronen i en klippemaskine, hvorved der sker en afklipning af det ene af de to klip på et 2-klipskort. Hvis denne afklipning ikke foretages, sker ingen begrænsning i kortets gyldighed, og passageren kan teoretisk set anvende kortet til et ubegrænset antal rejser, hvilket ikke er hensigten med et 2-klipskort.

Klageren har givet divergerende forklaringer om baggrunden for den manglende stemping af klippekortet; således har hun i den første henvendelse til Metro Service anført, at hun ikke vidste, at hun skulle stemple kortet, og i den anden henvendelse anført, at hun forgæves forsøgte at stemple kortet og herefter af en metromedarbejder fik lov til at stige på metroen.

Uanset at klageren måtte have befundet sig i den vildfarelse, at hun ikke skulle sit klippekort, medfører dette ikke, at der derved har foreligget sådanne særlige omstændigheder, at hun skal fritages for den pålagte kontrolafgift for ikke at have forevist gyldig rejsehjemmel ved kontrollen i metroen.

Klagerens udokumenterede oplysning om, at hun i lufthavnen blev vejledt af en medarbejder fra Metro Service om at kunne stige på metroen, hvis hun forgæves havde forsøgt at stemple kortet, kan ikke lægges til grund. Ankenævnet har ved afgørelsen heraf lagt vægt på, at oplysningen strider imod klagerens første forklaring til Metro Service den 13. maj 2013, samt at stewarden noterede, at klageren havde glemt at klippe kortet, hvilket underbygger klagerens oplysning i den første klage til Metro Service.

Ankenævnet finder dermed, at der ikke har foreligget sådanne særlige omstændigheder, at klageren skal fritages for at betale den pålagte kontrolafgift ved rejse uden gyldig rejsehjemmel.

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 17. juni 2014



Tine Vuust  
Nævnshoved