

## AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

- Journalnummer:** 2015-0296
- Klageren:** XX  
Malmø, Sverige
- Indklagede:** Metroselskabet I/S v/Metro Service A/S  
**CVRnummer:** 21 26 38 34
- Klagen vedrører:** Kontrolafgift på 750 kr. grundet manglende zone på Øresundsbillet.
- Parternes krav:** Klageren ønsker, at kontrolafgiften annulleres.  
Indklagede fastholder denne.
- Ankenævnets sammensætning:** Nævnensformand, landsdommer Tine Vuust  
Asta Ostrowski  
Torben Steenberg  
Bjarne Lindberg Bak  
Alice Stærdahl Andersen

Ankenævnet for Bus, Tog og Metro har på et møde den 19. april 2015 truffet følgende

### **AFGØRELSE:**

Metroselskabet I/S v/Metro Service A/S er berettiget til at opretholde kravet om klagerens betaling af kontrolafgiften på 750 kr.

Klageren skal betale beløbet til Metroselskabet I/S v/Metro Service A/S, som sender et girokort til klageren.

Da klageren ikke har fået medhold i klagen, tilbagebetales klagegebyret ikke, jf. ankenævnets vedtægter § 24, stk. 2, modsætningsvist.

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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.

## SAGENS OMSTÆNDIGHEDER:

Klageren, som er bosiddende i Sverige, var den 11. november 2015 i København, hvor hun skulle rejse med sin ægtefælle fra Frederiksberg st. mod Malmø. Som rejsehjemmel medbragte hun en Øresundsillet gyldig fra København H (F+L) til Malmø C (A), svarende til zonerne 01, 03 og 04 samt Malmø.

De steg imidlertid på Metroen i den forkerte retning mod Vanløse st., hvorefter de ifølge klageren steg af på næste station, Fasanvej st., og blev kontrolleret på perronen, inden de nåede at købe en billet fra Fasanvej til Frederiksberg.

Ifølge den elektroniske kontrolafgift foregik kontrollen, efter metroen havde forladt Lindevang st. i retning mod Lufthavnen. Kontrolafgiften blev udstedt kl. 20:09 for manglende zone på billet.

Klageren anmodede den 16. november 2015 Metro Service om annullering af kontrolafgiften og anførte til støtte følgende:

”

Being a visitor in the city I asked someone to guide me about the train going towards Malmö. I was misguided and I took a train in the wrong direction and immediately got off at the next station to change and go back to my destination. However, since I had crossed zones, I was fined At Fasanvej. Request you to waiver the fine as I was in Copenhagen to attend a conference and was returning home at the end of the day.

”

”

Dear Sir/Ma'am,

This is regarding a fine that we recently received on the metro in Copenhagen.

**Background:**

I live in Malmö, Sweden and on the evening of Nov 11, my husband and I came to Frederiksberg for dinner. While coming back, we wanted to head to the airport and take the Øresund train back to Malmö. However, at Frederiksberg metro station, in the rush of things, we got confused and boarded the train in another direction. The moment the metro left the station, we realised our mistake and got off promptly at the next station, Fasanvej. While we walked to the other end, we were asked to show our tickets by the ticket checking officials there. My husband had an all zones card, so he was fine, however, mine was limited to Copenhagen region (see attached the tickets). It was at Fasanvej, I realised that unwittingly I had crossed zones and my ticket was no more valid. We were fined 750 DKK for this (please see attached receipt).

**Our request:**

We believe it was a genuine mistake that we made that day. We had no intention of misusing our tickets and it was pure bad luck. I have also attached the receipt from the restaurant where we had our dinner so that you can verify our claims. You would notice that we left the restaurant after paying the bill at 1940, and we were fined a little later than that. I sincerely request that my fine be waived as I was just a tourist in the city without full knowledge of how the metro systems and zones worked.

I apologise if this caused any inconvenience to the metro system. Hope my request for a waiver will be accepted.

Thanks,

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Metro Service fastholdt den 23. november 2015 kontrolafgiften med følgende begrundelse:

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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 is valid for the entire journey. Furthermore, you must be able to show the ticket or card in case of a ticket inspection. All information regarding tickets, as well as the zone system, is available at every station. Yellow call points are available at all our stations as well. They will connect you to an operator in our control tower in case you need assistance. These are manned 24 hours.

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

### **ANKENÆVNETS BEGRUNDELSE:**

Ved kontrollen kunne klageren ikke forevise en billet, som var gyldig til rejse til hverken Fasanvej st. eller Lindevang st. i zone 02, idet disse stationer ligger uden for hendes billets gyldighedsområde (F+L), svarende til zone 01, 03 og 04.

Kontrolafgiften blev herved pålagt med rette.

Det af klageren anførte om, at hun ved en fejl tog metroen i en forkert retning, kan ikke føre til et andet resultat, da det beroede på hendes egne forhold, at hun ikke orienterede sig tilstrækkeligt på stationen inden ombordstigning og dermed endte med at stige på metroen i den forkerte retning.

Det bemærkes, at pligten til at betale kontrolafgift ikke er betinget af, om passageren bevidst har forsøgt at unddrage sig fuld betaling, da dette er et område med oplagt mulighed for omgåelse af reglerne om at kunne forevise gyldig rejsehjemmel, hvis det accepteres, at passageren kan gøre gældende, at der er tale om en fejl.

Det er uafklaret, om klageren blev billetteret på perronen på Fasanvej st. eller om bord på metroen. Men da klageren på kontrolltidspunktet havde modtaget en transportydelse, anses hun i henhold til rejsereglerne for at være passager, indtil metroens område forlades. Det er hermed uden betydning for kontrolafgiften, om klageren efter kontrollen købte en billet fra Fasanvej st. til Frederiksberg st.

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

### **RETSGRUNDLAG:**

Ifølge § 2, stk. 1, jf. § 3 nr. 3 i lovbekendtgørelse nr. 686 af 27. maj 2015 om lov om jernbaner, gælder loven også for metroen. Af § 14 stk. 1, fremgår jernbanevirksomhedernes adgang til at opkræve kontrolafgift og ekspeditionsgebyr for passagerer, der ikke foreviser gyldig rejsehjemmel (billetter og kort). Jf. § 14 stk. 4, fastsætter transportministeren nærmere regler om jernbanevirksomhedens adgang til at opkræve kontrolafgift og ekspeditionsgebyr, jf. stk. 1.

I henhold til § 4 i bekendtgørelse nr.1132 om kontrolafgifter af 08. september 2010, fastsætter jernbanevirksomheden bestemmelser om kontrolafgift i forretningsbetingelserne.

Trafikselskaberne i Hovedstadsområdet har vedtaget fælles rejseregler, hvori hjemmelen til udstedelse af kontrolafgift fremgår. Det anføres således bl.a., at passageren skal have gyldig rejsehjemmel til hele rejsen, og at denne skal kunne vises frem for kontrolpersonalet under hele rejsen, ved udstigning, i metroen indtil metroens område forlades, og i S-tog og lokalbanetog indtil peronen forlades.

Passagerer, der ikke på forlangende viser gyldig billet eller kort, herunder korrekt ind-checket rejsekort, skal betale en kontrolafgift på 750 kr.

## **PARTERNES ARGUMENTER OVER FOR ANKENÆVNET:**

### **Klageren anfører følgende:**

"On the evening of 11th November, my husband, who works with XX in Denmark was returning from his work in Hillerød (he has an all-zone monthly pass), and I was in Copenhagen for a day-long conference very close to Copenhagen central station. I work with YY in Sweden. I had a return ticket with me. We decided to have dinner in Copenhagen. We had dinner at Fredriksberg (which I could travel to using my ticket), and then we were returning home to Malmö by taking the Metro from Fredriksberg towards Copenhagen central station. Since my husband has travelled a fair amount in the Metros, he did not feel the need to check the directions. As you may understand, usually one is extra careful when one is new to the city but since my husband is well aware of the city, and we did not want to miss catching our metro (which by the way was there on both the platforms), we made an honest mistake in choosing the Metro in the wrong direction. As soon as we boarded the metro, we realized our mistake, and unboarded the metro at the immediate next station, Fasanvej. We were walking over towards the metro that goes in the opposite direction towards Copenhagen central when the ticket checkers asked for our tickets and fined us. We believe this is an honest mistake. We never travel without tickets in Copenhagen and being immigrants we are extra careful to obey the rules and laws in a foreign country."

### **Indklagede anfører følgende:**

"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](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. It is unfortunately not sufficient to enquire with a member of the public, regarding ticket information, as they may not be adequately informed concerning the journey the passenger wish-

es to undertake. In order to ensure correct travel information passengers should contact our Metro staff either in person or via call points on the station or in the Metro trains.

Call points can be found on all of our ticket vending machines, as well as yellow call points 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.

In the case in question the complainant is met by a steward inspecting tickets on the 11<sup>th</sup> of November 2015 at 20.09 am between Lindevang station (zone 2) and Lufthavnen station (zone 4). The complainant presents a mobile ticket from Skånetrafiken valid for travelling between København (F+L) (zones 1 + 3 + 4) and Malmö (A). As the complainant is not able to present a ticket valid in zone 2, a fare evasion ticket is issued, according to the travel regulations.

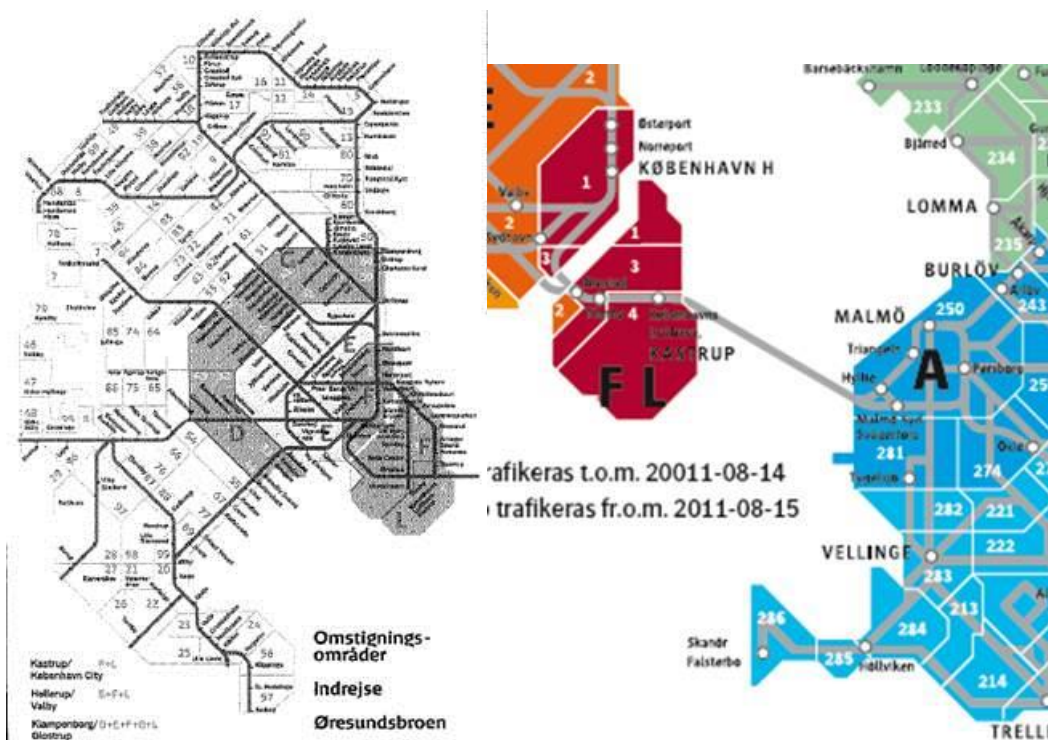
In her complaint to Metro the complainant writes:

Being a visitor in the city I asked someone to guide me about the train going towards Malmö. I was misguided and I took a train in the wrong direction and immediately got off at the next station to change and go back to my destination. However, since I had crossed zones, I was fined At Fasanvej. Request you to waiver the fine as I was in Copenhagen to attend a conference and was returning home at the end of the day.

Unfortunately it is not sufficient to ask i.e. other passengers, as they may not hold proper information concerning the metro journey. If in doubt, one should get in touch with a Metro representative. Also, at all metro stations there are information boards which also informs about the two metro lines, below is a photo of the line map at Frederiksberg station:



The complainant had a ticket valid for (in Copenhagen) the zones F-L, which equals the zones 1 + 3 + 4 (see inserted). Although we understand that mistakes and misunderstandings can occur, we only deal with the facts. And the facts of the present case, is that the complainant could not present a ticket valid for zone 2.



Based on the above mentioned, we maintain our claim towards the complainant, of paying the fine of DKK 750,-."

**Klageren har hertil blandt andet anført følgende:**

"I would like to bring your attention to the fact that there is a reason why I did not refer to the information board or reach out to the metro staff for detailed information. As stated earlier, my husband has been travelling for work within the Copenhagen region for the past six years. He is well versed with the routes, trains and zone information. He was also aware that Frederiksberg is at the edge of zone 1 and Fasanvej lies in another zone. He was also aware that I have the ticket only for zone 1 and that there is a fine of 750 DKK in case of non-possession of a valid ticket. This was the reason we did not feel the need to refer to the information board or reach out to the metro staff.

To explain you the exact situation, the moment we reached the metro platform there were two trains ready to depart from Frederiksberg station. In a bit of stress and rush to catch our connecting train to Malmo in time, we quickly checked with a passenger who was getting off from one of the trains. It was only once the train moved that we realised that it was heading in the wrong direction, and so we got off promptly at the next stop. At Fasanvej, we even walked to the other end to catch the train back. However, it was at this point that we were checked by the steward.

You may check with the steward to verify this fact that we walked from one platform to another in front of him. After being issued the fine by the steward, we even bought the ticket for me to go from Fasanvej to Fredriksberg station – something we would have done in any case, even if the steward had not caught us.”

På ankenævnets vegne



Tine Vuust  
Nævnformand