

## AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

**Journalnummer:** 2016-0218

**Klageren:** XX  
Tyskland

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

**Klagen vedrører:** Kontrolafgift på 750 kr., grundet manglende zoner på billet.

**Parternes krav:** Klageren ønsker kontrolafgiften annulleret  
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 sit møde den 2. maj 2017 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 og hans ægtefælle, som er kinesere bosiddende i Tyskland, var på ferie i København og rejste den 4. september 2016 mod Lufthavnen st. Ifølge klageren havde han på sit hotel fået oplyst, at han skulle købe en billet på 2 zoner for at komme fra hotellet til Lufthavnen st. og en billet på 2 zoner for at rejse fra hotellet til det centrale København. Klageren regnede derfor med, at 2 billetter til 2 zoner ville være tilstrækkeligt fra Kgs. Nytorv st. (i zone 01), hvorfra de rejste til Lufthavnen.



Denne rejse kræver billet til 3 zoner pr. rejsende.

Efter at metroen havde forladt Femøren st., var der kontrol af deres rejsehjemmel i zone 03/04, hvor han fremviste deres billetter. Klageren blev herefter klokken 16:16 pålagt en kontrolafgift for manglende billet, idet stewarden lagde zonerne på de to billetter sammen, således at klagerens ægtefælle ikke blev pålagt en kontrolafgift.

Klageren anmodede den 11. september 2016 metro Service om annullering af kontrolafgiften og anførte til støtte følgende:

"It was our first time to visit Copenhagen and we are not familiar with the metro ticket system. When we consulted with the hotel staff, they told us that from the hotel to the center city and from the hotel to the airport, we could just buy two-zone ticket. So we took it for granted that if we could buy two zone ticket if we travel from the center of the city to the airport. Yes, we made a mistake, but we do not deliberately want to cheat the system. So, we can accept to pay the difference fee between the two-zone ticket and the three-zone ticket and it is not fair to get the fine. "

Metro Service fastholdt den 20. september 2016 kontrolafgiften med henvisning til selvbetjeningsprincippet, samt at der fandtes information om zoner mv. på stationerne i det centrale København.

## **ANKENÆVNETS BEGRUNDELSE:**

Klageren kunne ved kontrollen i metroen den 4. september 2016 i zone 03/04 ikke forevise gyldig rejsehjemmel, da hans billet kun var gyldig i zone 01, idet bemærkes, at stewarden lagde de 4 zoner sammen, så klagerens ægtefælles billet var gyldig til 3 zoner.

Kontrolafgiften til klageren blev hermed pålagt med rette.

Det af klageren anførte om, at han af sit hotel havde fået oplyst, at han kunne benytte en billet på 2 zoner fra hotellet til Lufthavnen st. og fra hotellet til det centrale København, kan ikke føre til et andet resultat. Klageren burde have søgt information om zoner på Kgs. Nytorv st., hvorfra de rejste til Lufthavnen st.

Pligten til at betale kontrolafgift er ikke betinget af, om passageren bevidst har forsøgt at unddrage sig betaling for rejsen, og da dette er et område med mulighed for omgåelse af reglerne om at kunne forevise gyldig rejsehjemmel, er det ankenævnets opfattelse, at ikke har foreligget sådanne særlig 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:**

"It was our first travel to Copenhagen, and we are not familiar with the local ticket system of the public transportation. Therefore, we asked the reception staff of our hotel about how to buy ticket. He tells us that we just buy 2-zone-ticket from the hotel to the city center and from the hotel to the airport. So, we take it for granted that we just need to buy 2-zone-ticket if we travel from the city center to the airport. Then, we made a mistake when we travel from the city center to airport and bought two 2-zone-tickets. Actually, we do not want to cheat the system deliberately and we

bought the tickets by misunderstanding. Therefore, we think that it is not fair to be fined by 750 kr."

### **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 wishes to undertake. In order to ensure correct travel information passengers 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 and his companion was met by a steward inspecting tickets on the 4<sup>th</sup> September 2016 at 16:16 between Femøren station (zone 03) and Lufthavnen station (zone 04). The companions presented each a 2 zone ticket purchased in zone 01. Since the company was controlled after leaving the zone 03 the next station in zone 04, had basically none of them a valid ticket.

According to the Common Travel Rules the steward and Metro were within its rights to issue a fare evasion ticket for each of them. However the steward showed the kindness to put the two invalid tickets' zones into one valid ticket and wrote then only a single fare evasion ticket for the travelers.

From the copy of the tickets which the complainant has sent us, we can see that the tickets was purchased in TVM no. 132, which is located at Kgs. Nytorv station.

From Kgs. Nytorv station to Lufthavnen station, you pass through the zone 01, 03 and 04, a total of 3 zones.. All our ticket machines have a zone map and on all our stations there are information boards where you, in both Danish and English, can read how to buy a ticket with the correct number of zones. See photos below from Kgs. Nytorv station as well as close-up of the text of an information board.



**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

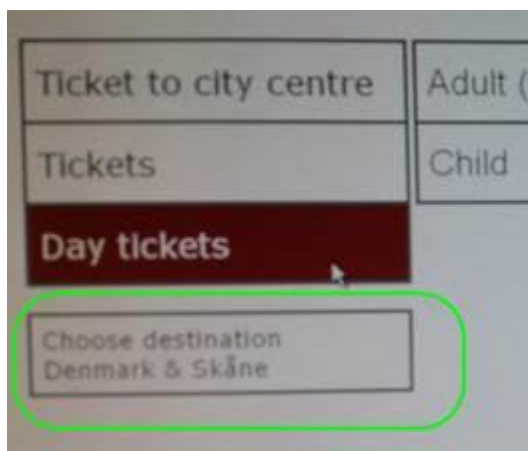
Do you use season card, then the card must cover the zones (marked with white) that you are bypassing or travelling in.

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

### 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.

If you do not know the correct number of zones you can also select the destination on the ticket machine, after which you get a ticket with the necessary zones. See photo below.



In his complaint to Metro the complainant wrote:

11-09-2016 10:08:28 Web : It was our first to visit Copenhagen and we are not familiar with the metro ticket system. When we con from the hotel to the center of the city and from the hotel to the airport, we could just buy two-zone ticket. So, we took it for granted travel from the center of the city to airport. Yes, we made a mistake but we do not deliberately want to cheat the system. So, we between the two-zone ticket and the three-zone ticket, and it is not fair to get the fine.

We have noted that the complainant asked the hotel about tickets for the metro. The complainant has not indicated which hotel he was staying at, and the hotel may well be located in a zone other than the one where the complainant and his companion began their journey to the airport. We are sorry if either the hotel has given incorrect information or if the complainant has misunderstood the hotel staff, but the Metro is not responsible for what others might have given of information.

According to the Common Travel Rules it is always the passenger's responsibility to make sure to have the correct ticket. Considering this, and all of the above, we maintain our claim on the fare evasion ticket of 750,- kroner ."

På ankenævnets vegne



Tine Vuust  
Nævnshoved