

## AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

- Journalnummer:** 2017-0002
- Klageren:** XX  
Island
- Indklagede:** Metroselskabet I/S v/Metro Service A/S  
**CVRnummer:** 21 26 38 34
- Klagen vedrører:** Kontrolafgift på 750 kr., da hun tog den forrige kundes kvittering i bil-  
letautomaten og ikke sin egen billet
- Parternes krav:** Klageren ønsker kontrolafgiften annulleret  
Indklagede fastholder denne
- Ankenævnets  
sammensætning:** Nævnensformand, landsdommer Tine Vuust  
Niels Martin Madsen  
Torben Steenberg  
Bjarne Lindberg Bak  
Rikke Frøkjær

Ankenævnet for Bus, Tog og Metro har på sit møde den 19. september 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.

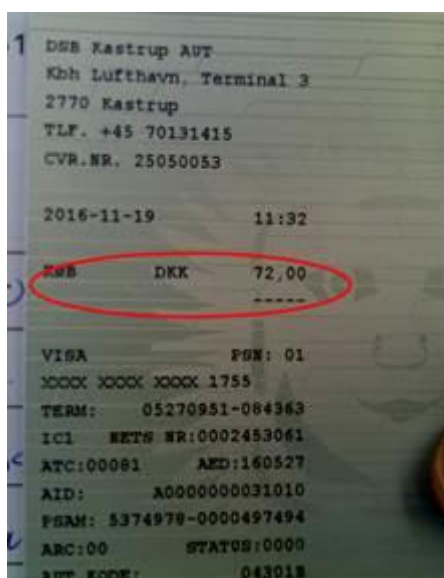
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Hver af parterne kan anlægge sag ved domstolene om de forhold, som klagen har vedrørt.

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, som var på en kort rejse i Danmark, rejste den 19 november 2016 med metroen. Hun havde forinden i en DSB-automat i lufthavnen købt en 24 timers billet, men medtog ved en fejl en tidligere kundes kvittering og ikke sin egen billet. Efter metroen havde forladt Islands brygge st. var der kontrol af klagerens rejsehjemmel, hvor hun fremviste kvitteringen. Klageren blev herefter klokken 12:18 pålagt en kontrolafgift på 750 kr. for manglende billet.



Billede af kvitteringen.

Klageren anmodede den 30 november 2016 Metro Service om annullering af kontrolafgiften og anførte til støtte herfor følgende:

"Last November the 19th I traveled from Keflavik to Kastrup. As I was going to a conference at the Bella Sky hotel. I bought a 24 hour train ticket so I could look at the city center later that day. I paid with my credit card (see attachment). As soon as I had finished paying I saw a ticket in the machine. I took the ticket and went to the train, on my way to the hotel I had to change trains, but can't remember the stations name. Just as we arrived at the Bella Sky a train guard came and wanted to see my ticket (12:15). I showed him my ticket (or what I thought was my ticket), the train guard said this was not a ticket, just a receipt (attachment) and that he would give me a fine. I told him where and how I had bought my ticket, then he told me that the machine also printed out receipts and this was probably from the last customer. He also said that this was a common problem with tourists. I was pretty shocked and told him that I had thought this was my ticket printed out. He then told that this was not my fault and often happened to tourists as I said before, but he would have to give me a fine. He also said that I could complain within two weeks if I was not happy with this, and that's what I'm doing now. To confirm my payment for the ticket I have put as a attachment a copy from my Visa account. Also seen in the attachment is a copy for the payment of another ticket I had to buy to get into town. This was a pretty expensive day at the train station, as my fine was for 750 kroner and I paid two times for my 24 hour ticket. Therefore I wish for the fine to be withdrawn."

Klageren vedlagde desuden en bankudskrift, hvoraf det fremgår, at der blev købt for 80 kr. i en DSB billetautomat på Kastrup station.

Metro Service fastholdt den 5. december 2017 kontrolafgiften med henvisning til selvbetjeningsprincippet, samt at det ikke er muligt at få en kontrolafgift afskrevet på baggrund af en kontoudskrift.

### **ANKENÆVNETS BEGRUNDELSE:**

Klageren kunne ved kontrollen i metroen den 19. november 2016 ikke forevise gyldig rejsehjemmel, da hun ved en fejl havde medtaget en tidligere kundes er kvittering og ikke sin billet. Kontrolafgiften blev hermed pålagt med rette.

Den omstændighed, at der efterfølgende er fremlagt bankudskrift, kan efter ankenævnets faste praksis ikke føre til et andet resultat, da billetten skal kunne forevises ved kontrollen.

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:**

"As I don't know if you have the first complain I sent you can see it at the bottom of this message. But in short term. I was fined because I didnt have a ticket but only a receipt which I had taken by mistake. I'm very unhappy about you not taking it into consideration that I have sent the

creditcard—payment. Also because the train guard said that I wasn't the first one, not the second one, not the third ....etc. etc... that this happened to.

This got me thinking about your ticket machines. Your ticket machines are not customer friendly. As the train guard said this is a common problem with foreign tourists, also because this is specified on your customer service website as one of the main problems regarding payment of tickets. Clearly you know well of the problem (customers taking receipts instead of tickets) but do nothing about. There are no signs on the machine or a screen-text when I had bought the ticket warning me or to instruct me.

In short terms... I paid for my ticket, twice actually because I had to buy a new one to get into town. The train guard said: „I believe you...but I'm going to fine you anyway"... ☺

Therefore I kindly ask you to reconsider your decision."

### **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 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 was met by a steward inspecting tickets on the 19<sup>th</sup> of November 2016 at 12:18 between Islands Brygge station and Bella Center station. The complainant presented a receipt from an automat, but no ticket. As the complainant was not able to present a valid ticket, a fare evasion ticket is issued, according to the travel regulations.

The complainant is of the opinion that our ticket machines are not customer friendly. We must of course deplore, but must at the same time point out, that the receipt the complainant showed to the steward, does not come from one of our machines, but from one of DSB's ticket machines at the Airport.

But even if the receipt was from one of our ticket machines, the complainant should yet accept a fare evasion ticket and our Customer Services Department would also have retained the fee. This

is because a ticket is impersonal ticket and only valid for the holder in the ticketing situation. For the same reason a bank statement is not accepted.

In this specific case, the complainant has also submitted a copy of her bank statement. If you compare the receipt from the DSB machine with the complainant's bank statements, there is no overlap with the amounts.

The receipt shows a purchase of 72, - DKK:



The complainant writes that she bought a 24 hour ticket. A 24 hour ticket for public transport in Copenhagen costs 80, - DKK. See below:

Prices		
	24 hours	72 hours
Adult	DKK 80	DKK 200
Children under 12 years travelling with an adult*	free	free
Children under 16 years	DKK 40	DKK 100

\*Maximum of two children per paying adult

<http://intl.m.dk/#!/about+the+metro/tickets/city+pass>

If the complainant had checked the piece of paper she took from the ticket machine, she immediately would have been able to see, that the paper she held in her hand was not consistent with the purchase she had made on the machine.

We must stress that we do not question the complainant's intentions, but relate solely to the facts. Facts in this case is that the complainant could not present a valid ticket when the steward checked tickets and the fare evasion ticket is therefore imposed correctly according to the rules.

Based on the above, we maintain our claim for payment of fare evasion ticket number xxx of 750, - DKK. "

På ankenævnets vegne



Tine Vuust  
Nævnnsforman