

AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

Journalnummer:	2017-0072
Klageren:	XX Tyskland
Indklagede: CVRnummer:	Metroselskabet I/S v/Metro Service A/S 21 26 38 34
Klagen vedrører:	Kontrolafgift på 750 kr. for manglende zoner. Stewarden lagde zonerne sammen, så kun klageren manglede gyldig 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.

- oOo -

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, www.advokatsamfundet.dk og /eller eget forsikringssselskab om eventuel forsikringsretshjælp.

SAGENS OMSTÆNDIGHEDER:

Klageren og hans ven, som er bosiddende i Tyskland, var på ferie i Danmark og skulle den 10. januar 2017 rejse med metroen fra Lufthavnen st. i zone 04 til Christianshavn st. i zone 01. Forinden købte de to billetter til hver to zoner. Turen kræver imidlertid 3 zoner per rejsende.

Efter metroen havde forladt Lergravsparken st. i zone 01, var der kontrol af deres rejsehjemmel, og da deres billetter kun var gyldig til rejse i zone 04 og 03, lagde stewarden zonerne på de to billetter sammen, således at det kun var klageren, som ikke havde nok zoner. Han blev derfor klokken 18:40 pålagt en kontrolafgift på 750 kr. for manglende zone.

Klageren anmodede den 23. januar 2017 Metro Service om annullering af kontrolafgiften og anførte til støtte herfor følgende:

" My complaint relates to an incident which took place on 10/01/17 between 6:30 and 7:00 pm. Me and my friend traveled from Copenhagen Airport. We came to Denmark as tourists for a few days. We have just arrived in from Berlin. We have never been to Copenhagen or Denmark before, it was our first time, and the first time in the country. Therefore, we did not know the city or public transport. Before our come we rented Airbnb nearby Christianshavn and we had an appointment with our host in 15 minutes which meant that we were late (getting from the airport took us a lot of time). Therefore we were in hurry. In the subway we mandatory bought two tickets for single ride. We read earlier that the single ticket on the subway should cost us 24 Danish kroner and it was confirmed - machine showed us this option. We knew from our host that we do not have to go to the center of Copenhagen and Christianshavn is pretty close to the airport, on the way to the center. Therefore we ignored the option to buy tickets to the center because we were strongly convinced that the tickets which we bought are suitable to take our ride. During the ride there was the control. We showed our tickets to the Steward and to our great surprise we were informed that they do not entitle us the ride we were having, and we should buy the others. (Steward ID XXX). We were deeply surprised and said sorry for that and tried to explain that we can immediately get out and buy the right tickets and that is our first time in the city and the country and the first subway ride in Copenhagen and we asked for understanding. We were treated very harshly and informed that since it's our first time in Denmark, it is a mandate to teach us the Danish approach to the country's rules. I declare, that the violation of Danish law one hour after landing in Denmark was not in my slightest intention neither goal. In the circumstances mentioned above it is certain that we were in a good will. We also tried our best ability and knowledge to keep the principal of due of diligence and not to break the rule. We are very sorry for this incident and we would like to apologize for our mistake On the other hand we need to indicate, that considering circumstances mentioned above, the punishment in this case is disproportionate to the fault. We are now very surprised by far-reaching lack of understanding and harsh and cool welcome in Denmark, of which hospitality and helpfulness we heard a lot of good. We request kindly to cancel the penalty. Especially because from the perspective of the person who doesn't live in Denmark, punishment is very high in relation to earnings in countries which we come from. At the same time we promise, that without any doubt, the similar situations will not appear in the future and we will fully respect the principles represented by the Kingdom of Denmark."

Metro Service fastholdt den 24. januar 2017 kontrolafgiften med henvisning til, at det altid er passagerens ansvar selv at sikre sig det korrekte antal zoner til den ønskede rejse, og at der herud-

over er opsat et skilt på billetautomaterne, hvor det tydeligt fremgår, at der kræves en 3-zoners billet at rejse til zone 01/city centre.



tomaterne.

Billede af det skilt, som findes på billetau-

ANKENÆVNETS BEGRUNDELSE:

Klageren og hans ven kunne ved kontrollen i metroen den 10. januar 2017 ikke forevise gyldig rejsehjemmel, da deres billetter kun var gyldig i 04 og 03, og de befandt sig i zone 01. Stewarden lagde korrekt zonerne på de to billetter sammen, således at der kun blev givet én kontrolafgift i stedet for to.

Kontrolafgiften til klageren blev hermed pålagt med rette.

Ankenævnet bemærker, at den engelsksprogede information på Lufthavnen st. om, at der kræves billet til 3 zoner for at rejse til "city centre", hvor også Christianshavns st. er anført, findes tilstrækkelig tydelig.

Det af klageren anførte om, at han ikke ønskede at køre så langt som til "city centre" men ville stå af i zone 02, kan ikke føre til et andet resultat. Ankenævnet bemærker, at zone 02 ligger længere væk end zone 01 fra zone 04, og at der også kræves billet til 3 zoner, jf. det gule område, hvori zone 01 og 02 befinder sig, når man rejser med udgangspunkt i zone 04.



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. Ankenævnet finder, at travlhed og manglende kendskab til det danske zonesystem ikke udgør 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:

"The completely unsympathetic rejection of my complaint about a fare evasion fine on Copenhagen's metro on the day of my first arrival in the city. Both Metro Steward as well as MetroService represented glaring, irreverent attitude regarding my case as I've used CPH's metro ticket vending machines for the very first time and falsely been convinced of buying the CORRECT metro ticket for the relatively short distance of my ride from the airport to my final destination. The definite point of a possible misunderstanding is the misleading information on the red board on the metro platform that describes the necessity of buying a 3 zone ticket for getting to the city center. However, my real aim was NOT TO GO TO THE CITY CENTER BUT get off much earlier in zone 2. The overall circumstances of the ticket purchasing process and the facts written on the red info board confused me a lot, that's why I've got into struggle.

The traffic company's behavior is highly exaggerated. I feel that I was treated in a really unfair way without any understanding of my personal situation. I'm convinced this is not the right way to treat people, who have just arrived in Denmark, by punishing them NOT because they DIDN'T buy a ticket, but ONLY bought a moderately wrong one. I strongly believe that this kind of customer's treatment is far too harsh. The height of the fine is absolutely not corresponding with the type and category of my mistake.

Regarding my overall circumstances stated above all kind of further process of this ticket evasion case I hereby strongly apply for a CANCELLATION of the entire fine that has been delivered on the day 24.01.2017 on behalf of Cph's Metro Kundeservice agent xx."

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 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 a friend was met by a steward inspecting tickets on the 10th of January 2017 at 18:40 between Lergravsparken station (zone 01) and Christianshavn station (zone 01). The two persons presented each a 2 zone ticket bought in zone 04 (Lufthavnen

station). As you need a 3 zone ticket from the airport zone 04 into the zone 01, none of the two travelers had a valid ticket at the time of inspection. Strictly speaking, should both the travelers have a fare evasion ticket each, but performing excellent customer service the steward 'put' the two tickets together so that one traveler thus had a valid ticket and wrote out a fare evasion ticket to the other.



As Lufthavnen station is a place with many foreign passengers additional information about tickets and zones, etc. are available and the station is also manned by Metro staff who will be happy to help and guide. At the ticket machines there are, both front and rear, information that, if you want to go to Copenhagen, you need a ticket with 3 zones. The red information signs also shows in

which zone the individual stations are located. There are also large information boards, which in Danish and English also informs about zones and tickets. If arriving to Copenhagen with an international flights you will pass a large manned ticket sale on your way to the Metro, where it is also possible to get help. See the photos below.





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.

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

In his complaint to us the complainant writes: *'Before our come we rented Airbnb nearby Christianshavn'*.

In his complaint to the appeal board the complainant writes: *'My real aim was not to go to the city center but get off much earlier in zone 02'*.

We are a little puzzled about *'get off much earlier in zone 02'* as zone 02 is even further away from the airport.

In the complainant's view, Christianshavn is not located in Copenhagen City, but instead is situated quite close to the airport why the two travelers ignored the signs, informing that you need 3 zones to get into town. The complainant also says that they were in a hurry and that they were first time tourists in Denmark. Passengers should do an effort in familiarizing themselves with the transport system, when coming to a foreign country and not just ignore the information available because you are in a hurry.

We are sorry if the complainant feels badly and harshly treated by both the steward and the case-worker, although we cannot see where the bad treatment consists. At Metro, we treat everyone equally, the requirement for valid ticket goes for all. No distinction is made, all travels on the same terms. There is thus no special rules for pensioners, children, tourists, disabled or any other interest groups - apart from some disability organizations that previously has entered into special agreements for each of their members.

A fare evasion ticket is currently DKK 750 for adults, and is not graduated depending on the reason of the fare evasion ticket. The actual amount is decided by the cooperating transport companies and approved by the relevant authorities."

På ankenævnets vegne



Tine Vuust
Nævnensformand