

AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

Journalnummer: 2017-0085

Klageren: XX
Tyskland

Indklagede: Metroselskabet v/Metro Service A/S
CVRnummer: 21293834

Klagen vedrører: Kontrolafgift på 750 kr. for udløbet billet

Parternes krav: Klageren ønsker kontrolafgiften annulleret
Indklagede fastholder denne

Ankenævnets sammensætning: Nævnensformand, landsdommer Tine Vuust
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Torben Steenberg
Bjarne Lindberg Bak
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Ankenævnet for Bus, Tog og Metro har på sit møde den 19. september 2017 truffet følgende

AFGØRELSE:

Metro Service er berettiget til at opretholde kravet om klagerens betaling af kontrolafgiften på 750 kr.

Klageren skal betale beløbet til Metro Service, 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 forsikringsselskab om eventuel forsikringsretshjælp.

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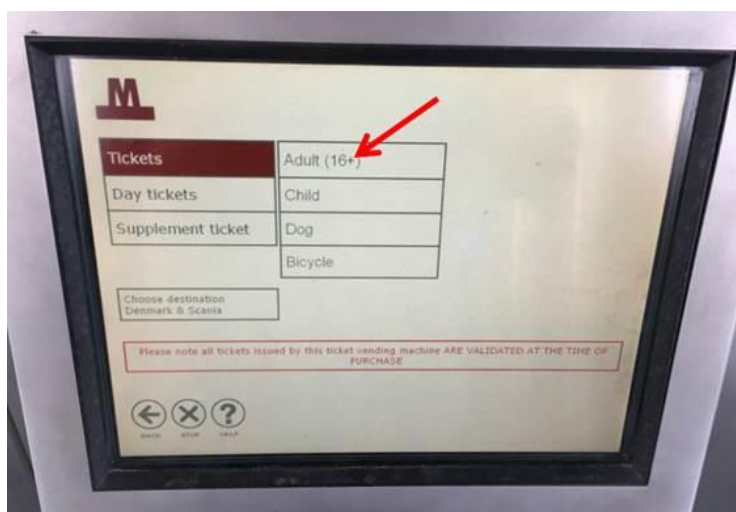
SAGENS OMSTÆNDIGHEDER:

Klageren, som er amerikaner bosat i Tyskland, var med to venner på ferie i København. De boede ved Lergravsparken st., og den 12. februar 2017 havde de planlagt at tage til centrum, inden de skulle i Lufthavnen og flyve hjem.

Ifølge klageren havde de problemer med at forstå, hvordan de skulle købe billetter til metroen, når de ville sikre sig at have billetter både til turen til centrum og derfra ud til Lufthavnen st. De fandt til sidst ud af det og købte hver to 2-zoners billetter fra zone 01.

Ifølge Metro Service fremkommer med rød tekst under købsflow'et følgende besked:

"Please note all tickets issued by this ticket vending machine ARE VALIDATED AT THE TIME OF PURCHASE"



Billetterne, som var gyldige i 75 minutter fra kl. 11:45, hvilket var anført på dansk, så således ud:



foto fra stewardens PDA

Ved kontrol på vej fra centrum til Lufthavnen st. senere samme dag, blev klageren kl. 16:23 pålagt en kontrolafgift på 750 kr. for udløbet rejsehjemmel.

Den 15. februar anmodede hun Metro Service om at frafalde kontrolafgiften og beskrev situationen:

"I was coming from Lergravsparken stop on the M2 line to go to the airport, and I thought I had bought a ticket to get me there. That morning, I bought 2 tickets that would be good for 2 zones, because I was taking the train in the morning as well as in the afternoon to go to the airport. There was no option for me to buy a ticket that would be good for just one-way to the airport, which confused me since when I went to the airport to Lergravsparken, I purchased a ticket that was just one-way to my destination. When it asked me for zones, I was sure I could choose the 2 zones ticket because it ended up costing me 48,00 kroner. However, the zone system did confuse me as a tourist and there was no other option for me to buy a ticket. When I explained to the officer that gave me the ticket, he understood because I did, in fact, pay money to ride the train and it was just a misunderstanding. However, he did tell me to file a complaint because I truly wasn't trying to cheat the system and I tried to purchase two tickets to get me to my destinations safely and correctly. I really tried to pay and the fact that there was no option for a one-way ticket was ridiculous, and I hope you understand where I am coming from for this mishap."

Metro Service fastholdt kontrolafgiften den 17. februar 2017 med den begrundelse, at information om billetters gyldighed findes på tavler på stationen, samt at man ved købet af automaten får besked om, at alle billetter er gyldige fra udstedelsen.

ANKENÆVNETS BEGRUNDELSE:

Ved kontrol i metroen den 12. februar 2017 omkring kl. 16:20 kunne klageren ikke forevise gyldig rejsehjemmel, da de to 2-zoners billetter var udstedt kl. 11:45 og derfor var udløbet 75 minutter senere, som anført på billetten. Kontrolafgiften blev derfor i kontrolsituationen pålagt med rette.

Ankenævnet statuerede i afgørelsen af 7. marts 2017 i sag nr. 2016-0174, at den røde tekst i købsflow'et: **"Please note all tickets issued by this ticket vending machine ARE VALIDATED AT THE TIME OF PURCHASE"** ikke i sig selv er en oplysning om billetternes tidsbegrænsede gyldighed, og at oplysningen burde have fremgået, hvorefter Metro Service blev pålagt at annullere kontrolafgifterne. I sagen var klagerens billetter rent zonemæssigt gyldige til den zone, hvori kontrollen foregik.

I nærværende sag købte klageren sin billet til Lufthavnen i zone 01, og da kontrollen fandt sted i zone 04, var billetten ikke gyldig zonemæssigt.

Herefter finder den tidligere afsagte kendelse ikke anvendelse i bedømmelsen af den foreliggende sag, og Metro Service er berettiget til at fastholde klagerens kontrolafgift.

Det af klageren anførte om, at hun havde vanskeligt ved at forstå zonesystemet, kan ikke føre til et andet resultat.

Pligten til at betale kontrolafgift er ikke betinget af, om passageren bevidst har søgt at unddrage sig betaling for rejsen.

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.

Trafikvirksomhederne i Danmark har vedtaget fælles landsdækkende 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 perronen forlades.

Kunder, der ikke på forlangende viser gyldig rejsehjemmel, herunder er korrekt checket ind på rejsekort til deres rejse, skal betale en kontrolafgift på 750 kr. for voksne.

PARTERNES ARGUMENTER OVER FOR ANKENÆVNET:

Klageren anfører følgende:

Hello, I believe this fine was given unjustly. I stated in my first complaint that I was on my way to the airport after a lovely weekend in Copenhagen. The entire weekend, we bought tickets for every train ride and bus ride, as we were definitely warned that although based on the honor system, there are public transportation workers around all the time to make sure you bought a ticket for the train. My two friends and I would

never want to risk doing anything against the law, let alone in another country. So, on our last day in Copenhagen, we were planning how we were to get to the airport from the stop on the metro we were staying in, which was Lergravsparken if I remember correctly. Since we were going to the city center that morning before we went to the airport, we bought two tickets: one to get to city center and one to get to the airport. At the time we purchased the tickets, the machines seemed different than the ones we had been using all weekend, and we were confused as to how exactly it worked but we figured it out. We had no issues on our train to the city center, and then later we went to the airport. We were on the train and during the last five minutes of the ride, we were approached by a nice worker who asked to see our tickets. We gladly complied, as we thought our tickets were valid! When the worker told me my ticket didn't work, I explained to him that I definitely bought my ticket and I was in no way, shape, or form trying to hustle the Metro out of any money. He seemed sympathetic, as I did buy a ticket with the intention of not breaking any laws or rules.

In response to my initial complaint, I was told that every passenger is responsible for doing the correct thing and I completely agree. However, this was my first trip in Europe and I'm only 19, and with the little money I have, this full fine puts me out of groceries and food for two weeks. I'd also like to point out that in the response email to my complaint, it was stated that the longest trip with the Metro will cost 3 zones, and my ticket was only valid for 2. This being so, I wasn't travelling from Vanlose. I was travelling from Lergravsparken. So, my ticket should have been valid and I don't believe I should have done anything differently on that day.

I hope that you understand where I am coming from in this ordeal, as a young university student trying to learn how to budget and live a good life. I'm very sorry for the confusion, and I wish this never happened in the first place!

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.

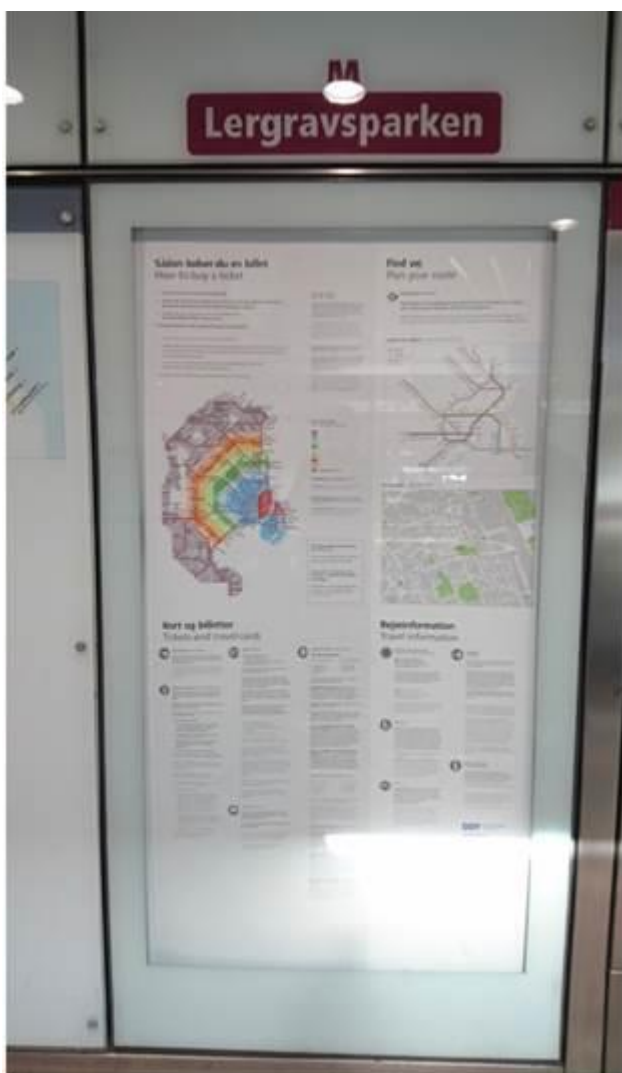
Our Metro staff is trained to issue fare evasion tickets to all customers without a valid ticket. They do not distinguish between an intentional or unintentional mistake. They only check the validity of the ticket. It is unfortunately not sufficient to enquire with a member of the public, regarding ticket information, as they may not be adequately informed concerning the journey the passenger wishes to undertake. In order to ensure correct travel information passengers 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 12th of February 2017 at 16:23 between Femøren station (zone 03) and Lufthavnen station (zone 04). The complainant presented two expired tickets bought in zone 01, valid for two zones. As the complainant was not able to present a valid ticket, a fare evasion ticket was issued, according to the travel regulations.

The complainant states that she bought two tickets on Lergravsparken station earlier that day with the intention that the first ticket to bring her from Lergravsparken to the inner city where she would spend some time and then the second ticket would bring her from the inner city to the airport.

At all stations have been set up information boards where you may partly see for how long a ticket is valid, as well as get information on how many / which zones you need for a specific trip. See photo inserted as well as the attached PDF-file.



1. The red zone on the map indicates your current location.
2. Find the zone in which your destination is located to determine the zone colour code for your trip. If you travel through a zone that is more expensive than your destination zone, you must pay for the most expensive zone colour.
3. Buy a ticket corresponding to the number of zones indicated by the colour code. You must buy a ticket for at least 2 zones per person.

You can also enter a station and buy a ticket directly to your destination.

Single ticket and Mobile multiple-ride ticket

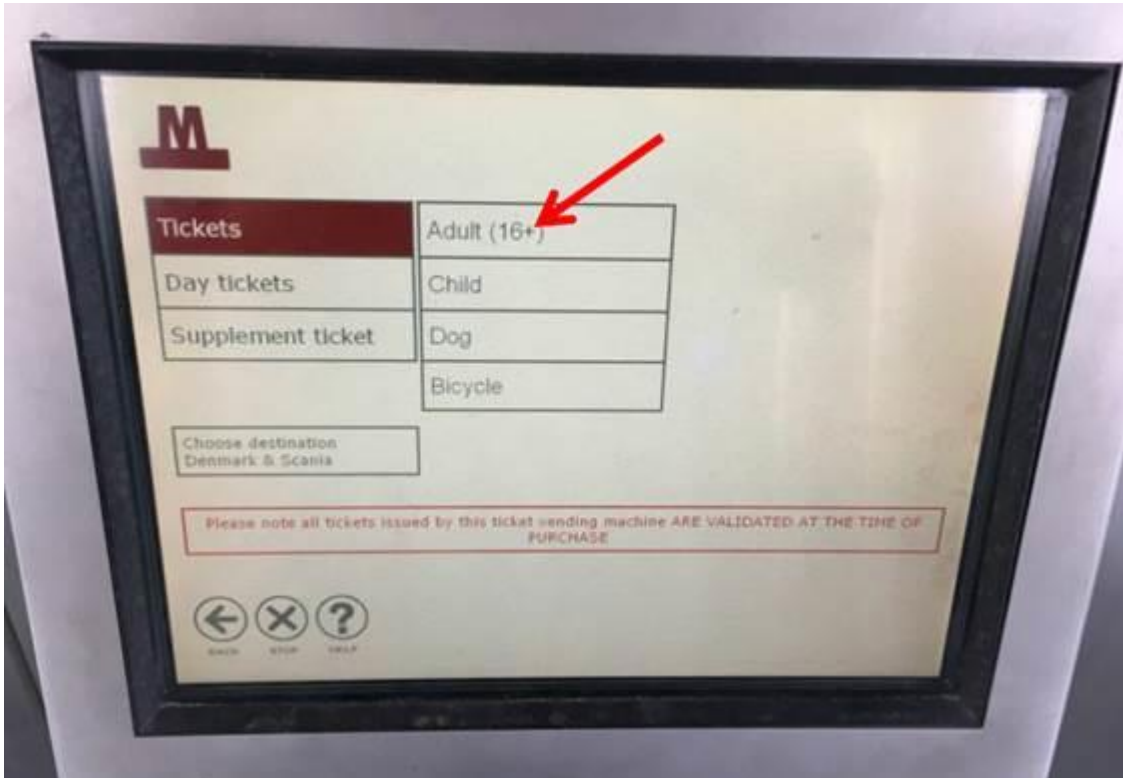
Total zones / validity period	Total zones / validity period
2 1 hour 15 min	6 2 hours 15 min
3 1 hour 30 min	7 2 hours 30 min
4 1 hour 45 min	8 2 hours 45 min
5 2 hours	

All tickets are valid for travel on harbour buses, buses, trains and the Metro within the ticket's validity period.

Single tickets for long trips (9 or more zones) are valid for one naturally progressing trip from the start zone to the destination zone. The single ticket is only valid for one trip between the zones for which it is bought. It is valid for the rest of the operating day (i.e. until 4:00am) on which it is issued.

Season tickets for 8 or less zones are valid for trips in the zones indicated on the season ticket.

When you buy a ticket in the ticket machine it is informed on the screen before proceeding to payment, that the ticket is valid from the time of purchase. See photo below:



Even if the ticket the complainant showed had still been valid considering the time validity, it also lacked the correct zones to be valid from the inner city to the airport. The City Center is located in zone 01. To get to the Airport by Metro from the zone 01, you must travel through zone 03 to arrive at the Airport, located in the zone 04.

The ticket(s) the complainant presented to the steward were both two-zone tickets purchased in zone 01, so even if the time validity had been proper, the ticket(s) would still have lacked a zone to bring the complainant to the airport.

På ankenævnets vegne

Tine Vuust
Nævnetsformand