

## AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

- Journalnummer:** 2017-0163
- Klageren:** XX  
England
- Indklagede:** Metroselskabet I/S v/Metro Service A/S  
**CVRnummer:** 21 26 38 34
- Klagen vedrører:** Kontrolafgift på 750 kr., da hans 72-timers billet var udløbet.
- Parternes krav:** Klageren ønsker kontrolafgiften annulleret  
Indklagede fastholder denne
- Ankenævnets sammensætning:** Nævnensformand, landsdommer Tine Vuust  
Niels Martin Madsen  
Torben Steenberg  
Rikke Frøkjær (2 stemmer)

Ankenævnet for Bus, Tog og Metro har på sit møde den 9. november 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.

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**SAGENS OMSTÆNDIGHEDER:**

Klageren, som er englænder, var på ferie i Danmark, hvor han den 25. maj 2017 ankom til lufthavnen.

Ifølge klageren fik han hjælp til at købe en 72-timers billet i en DSB-billetautomat, gyldig til den 28. maj 2017 klokken 17:00. Vedkommende, som vejledte ham med købet, omtalte billetten som en 3-dagsbillet.

### Billede af klagerens billet:



Den 28. maj 2017 rejste klageren med metroen, hvor der var kontrol efter den havde forladt Nørreport st. Han fremviste sin 72-timers billet, som var udløbet kl. 17, hvorfor han klokken 21:22 blev pålagt en kontrolafgift på 750 kr. grundet udløbet rejsehjemmel.

Klageren anmodede den 30. maj 2017 Metro Service om at annullere kontrolafgiften og anførte til støtte herfor, at han ikke forstod dansk, og at i England er billetter gyldige per dag:

" I am an English tourist and this was my first trip to Copenhagen. I was issued a fine because the 3 day ticket had run out by a couple of hours.

The ticket was in Danish so I didn't realise that the ticket was not valid until the end of the end date.

In England train tickets are per day, not by hour so it was not something I was used to. I apologize for not realising this and I would like to request the fine to be cancelled as I think it is unfair for a visiting tourist to understand how the tickets work when they are written in Danish."

Metro Service fastholdt den 1. juni 2017 kontrolafgiften med henvisning til selvbetjeningsprincippet, samt at der på billetten stod, at den gjaldt i 72 timer, både på dansk og engelsk.

### ANKENÆVNETS BEGRUNDELSE:

Klageren kunne ved kontrollen i metroen den 28. maj 2017 efter kl. 21 ikke forevise gyldig rejsehjemmel, da hans 72-timers billet købt i en DSB-automat var udløbet kl. 17:00, og han ikke havde anden gyldig rejsehjemmel. Kontrolafgiften blev hermed pålagt med rette.

Billetten angav på engelsk, at den var gyldig i 72 timer, og når henses til den engelske tekst sammenholdt med, at både købstidspunktet: 25. maj 2017 kl. 16:53 og gyldighedstidspunkt: 28.05.2017 kl. 17:00 var påtrykt på billetten, burde klageren ikke have været i tvivl om udløbets tidspunktet.

Det af klageren anførte om, at han havde fået oplyst, at billetten var gyldig i 3 dage, og at billetter i England er gyldige til slutningen af den dato, som er påtrykt på billetten, kan således ikke føre til et andet resultat. Man kan som passager i et andet land ikke umiddelbart regne med, at rejsereglerne er de samme som i hjemlandet.

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 betale for sin rejse, er det ankenævnets opfattelse, at ikke har foreligget sådanne særlig omstændigheder, at klageren skal fritages for kontrolafgiften.

Det vil imidlertid være hensigtsmæssigt, hvis DSB oversætter den danske tekst "gyldig til" til engelsk, så den danske tekst ikke står alene. Ankenævnet sender derfor denne afgørelse også til DSB.

## **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 ANKENÆVNEN:**

### **Klageren anfører følgende:**

" I am from England and am making a complaint regarding a fine issued on the 28/5/17 on my visit to Copenhagen. At the start of my trip I purchased a 3 day ticket from the Metro airport with the help of one of the attendants. At no point did I operate the self service machine (this was done by the attendant who helped me). The attendant suggested a 3-day ticket (the term "3-day" was used) as a good value option for me to travel on the metro. I put the money into the machine as instructed by the attendant and the attendant handed me the ticket which I kept in my wallet. I did not double check the ticket as at first glance it seemed to be in Danish and I had just had the ticket explained to me by the attendant.

On the 28/5/17 I travelled back from an event at the Bella centre and was issued a fine by an inspector for the Metro service due to the ticket expiring by a certain time (17:00, I travelled at around 19:30, very close to the expiry time). I had not realized that the tickets in Denmark were time-based and not date-based (in England a ticket is valid by day, up to the end of the last date on the ticket).

I can now see that the ticket says 72 hours in English in small print at the bottom, however I had not checked the ticket to find this information because the attendant at the airport Metro station had referred to the ticket as valid for 3-days, so I took this to mean the ticket was valid for the full three days.

I would like to complain about the fine, which I believe is too large, as my actions were not malicious in any way. I made two trips on the Metro that day, one from Fansavej to the Bella Centre in the morning, and the return trip where I was issued the fine in the evening at around 19:30. I am happy to help you identify me by CCTV to prove that I only made these two trips. I was not maliciously travelling on an expired ticket multiple times, and I was travelling very close to the time of expiry (not for example, a day after expiry), this was a simple mistake for which I apologize.

I have apologized to the Metro service and I am happy to pay the cost of a ticket from the Bella Centre to Fansavej, however I think a fine is unfair as I am not used to the Metro service operating by hour, and I was misinformed (or I misunderstood) when purchasing the ticket. I now realize that the ticket said 72 hours, however as stated above, I did not think to look for this information because I had spoken to an attendant and so believed I was well informed. Furthermore, the expiry time on the ticket is not referenced in English, and so whilst the ticket may state 72 hours, there was no way for me to know for sure what the end time was. On discussion with the Metro officer who issued the fine, he agreed that the time was in Danish and that I should be able to appeal the fine as he agreed that this was not clear. He informed me that I should not worry about the issue of the fine as I would be able to appeal.

I would really appreciate your consideration on this matter and I am certainly happy to pay for the cost of the trip, which I would have done at the time, had I realized that my ticket had expired. "

### **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 28<sup>th</sup> of February 2017 at 21:22 between Nørreport station and Forum station. The complainant presented an expired ticket. As the complainant was not able to present a valid ticket, a fare evasion ticket was issued, according to the travel regulations.

The complainant's ticket has been purchased at one of DSB's ticket machines at the airport. Since DSB has a staffed ticket sale at the airport, they do not usually have staff posted at the ticket machines, so we do not know who has helped the complainant buying the ticket.

In his inquiries, the complainant explains that he was assisted when he bought his ticket at the airport and that the complainant understood of the person who helped him purchasing the ticket that it lasted for 3 days and therefore the complainant did not check the ticket he received, just as the complainant assumed that the ticket was in Danish only.

However, the text on the ticket, explains very clearly in both Danish and English, that the ticket is valid for 72 hours in the zones 01, 02, 03 and 04. If the complainant had taken a look at the ticket instead of partly just assuming that the text was only in Danish and partly that the ticket rules in Denmark are identical to the ticket rules in England, the complainant would immediately have been aware of the validity of the ticket and could thus have avoided receiving a fare evasion ticket. Below is a photo of the ticket presented:



We do not distinguish between an intentional or unintentional mistake, but relate exclusively to the facts. Facts in this case is that the complainant did not have a valid ticket when inspected. 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.

Considering the above, we maintain our claim on the fare evasion ticket number xxx of DKK 750,-

### Hertil har klageren anført:

"I kindly acknowledge the response from the Metro service, however, I would like to uphold my original complaint that I was misinformed with regards to the ticket expiration, and so this is the reason for me traveling on a ticket that had expired a couple of hours prior. I will provide more information regarding this below, including addressing points made by the Metro service in their recent reply, and providing evidence of support from a similar case recently settled in favour of the complainant by the board of appeal.

Firstly, with regards the following comment

"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."

I did in fact enquire with a Metro employee, which the Metro service acknowledges is the best way to obtain information. Therefore I believe it is unreasonable to hold me responsible for the information that was given to me by one of their employees.

As stated in my previous correspondence, when I purchased my ticket at the airport metro service, the terminal was very busy, and so when I went to queue for the self service machines, there were Metro staff members helping tourists use the machines to speed up the queues. It is with one of these employees of the metro service that I purchased my ticket and sought advice regard-

ing the best option to purchase. When I said I would be staying for the weekend, it was suggested that I purchase a "3-day" ticket. As mentioned in my previous correspondence, the term "3-day" was used. At no point was any mention made of a specific time limit (i.e. the 72 hours stipulated by the Metro service in the small print). This information, that the ticket was valid for "3-days" came from an employee of the Metro service at the airport terminal, who was helping myself and other tourists with their purchases. I did not operate the self service machine, this was done for me by the very helpful Metro employee. I therefore did not read any messages that might have been on the machine, I simply passed the Metro employee my money for the ticket and they handed me back my ticket. I did not at any point ask a member of the public or other person who was not an employee of the Metro service, about the validity of any tickets purchased. The only information I obtained, was from an employee of the Metro service at the airport terminal.

I would like to suggest that given this information (that the ticket was valid for "3-days") it is reasonable for a tourist in a foreign country to trust this information since it came from an employee of the Metro service. This is in agreement with what the Metro service have recommended in their previous correspondence. Therefore, I did not seek to check my ticket as it had just been explained to me by the Metro employee. Furthermore, prior to my inspection on the Sunday, there was no other point where my ticket was required. The Metro service does not use barriers, and there are not guards (that I ever observed) checking tickets on entry to the Metro service. Therefore, having had the validity explained to me at the airport terminal, I believed I knew the correct information, and since I am in the habit of keeping my documents safe when traveling, I did not look at my ticket or take it out of my wallet until it was checked on the Sunday, because there was no requirement prior to this. Therefore, I maintain it is unreasonable for the Metro service to expect me to know about the 72 hour validity, even if it was printed in small print on the back of the ticket, as there was no reason up to the time of my inspection, for me to check or present my ticket. If there had been a barrier at the Bella Centre where I boarded the train on the Sunday, my ticket would have been rejected and I would have purchased a new one. However, this was not the case, and so I unknowingly boarded with a ticket that had expired a couple of hours prior.

In light of these supporting arguments, I would like to address the following comment

"However, the text on the ticket, explains very clearly in both Danish and English, that the ticket is valid for 72 hours in the zones 01, 02, 03 and 04. If the complainant had taken a look at the ticket instead of partly just assuming that the text was only in Danish and partly that the ticket rules in Denmark are identical to the ticket rules in England, the complainant would immediately have been aware of the validity of the ticket and could thus have avoided receiving a fare evasion ticket."

As stated above, there was never a situation, after talking to the Metro employee, where I needed to look at my ticket. I think it is reasonable to assume that I would accept the explanation of the Metro employee at face value (as advised by the Metro service) and so did not look over my ticket in detail. As stated in their recent correspondence, the Metro service acknowledges that their staff members are the best way to obtain information. Also, as shown in the picture of the ticket, the expiry time, is in Danish, and not English, and so even if the ticket states 72 hours, it is not completely clear to a non-Danish speaking tourist, which value refers to the expiry time. However, as mentioned prior, I did not check my ticket after having the validity explained to me by the Metro employee.

Furthermore, in response to the following comment



"We do not distinguish between an intentional or unintentional mistake, but relate exclusively to the facts. Facts in this case is that the complainant did not have a valid ticket when inspected."

I acknowledge that it is a fact that my ticket was invalid. However, it is also a fact that this was unknown to me at the time of boarding the train. It is a fact, as stated by the Metro service that their employees are the best way to obtain information. It is a fact that I was told "3-days" validity in those words, and that I was not told about the 72 hour validity. It is a fact that this information was provided to me by an employee of the Metro service. Furthermore it is a fact that the Metro service does not utilize ticket barriers or (for the journeys that I made) station ticket inspectors at the entry to the platform. It is also a fact that this means there is no reason for anyone to check their ticket until it is inspected.

I argue that with these facts in hand, it is unreasonable to uphold a fine considering that I was given inaccurate information by an employee of the Metro service. To support my claim, my ticket was found out of date by a couple of hours, which shows I was traveling on the same day the ticket expired, and moreover, as the expiry time was in the evening, this supports the claim that I believed the ticket to be valid for 3 days. I was not traveling on an expired ticket on the following day for instance.

Finally, with regards to the following point:

"No distinction is made, all travels on the same terms."

I did not travel on the same terms as the other passengers as I was not provided with the same terms of travel. I was told of a 3-day validity, and not a 72 hour validity, and so it is not reasonable to subject me to a fine based upon terms that were not explained to me correctly.

In support of my complaint I would like to quote from a recent complaint that was upheld in favour of the complainant in a similar case. The full details can be found subject to this reference [Decision 2016-0174, 7 March 2017 - Metro.](#))

"Other than its strict liability position, the crux of the Metro service's argument for why the Board should uphold its fine is that there was adequate information available at the airport in English advising us that we needed valid tickets to use the Metro system. Specifically, they state that their signs and information boards at the airport expressly inform tourists that they must "purchase correct and valid tickets" to ride on the Metro and that failure to do so will have consequences. We do not dispute that such signs exist. Nor do we dispute that they advise tourists to have valid tickets. We do, however, believe this argument misses the point. We fully understood that we should have valid tickets. That is precisely why we purchased four full priced tickets, two for our ride to the hotel and two for our return to the airport. What we did not know and what neither the signs nor the information boards addressed in any way was that the tickets we were purchasing were time limited."

In this situation a couple from the US purchased tickets with inadequate information regarding the validity, again due to an unfamiliarity with the Danish system, and traveled on expired tickets unknowingly. This case was settled in favour of the complainants.

The Metro commented in this case that travelers should make all necessary efforts to ensure they have valid tickets to avoid being fined. In my case, I made a very reasonable effort to ensure that I was traveling using valid tickets (by asking an employee of the Metro service), but was given



incorrect information. Therefore I would argue that I did make the necessary efforts, similar to the case referenced above.

The case referenced above was settled in favour of the complainants based upon a lack of information they obtained using the machines themselves. My argument is that I was given information by an employee of the Metro service, and so if there is precedent for support for self-service users, it should be reasonable to receive support for incorrect information from an employee of the Metro service itself. Furthermore, this complaint specifically mentions that their was not not enough information in English, or not information that was clear or obvious enough in English, with regards to time limits on tickets.

Finally, commenting on the case referenced above, the appeals board stated the following (translated)

“As a result of the above, in conjunction with the appeal board receiving an increasing number of complaints from tourists / non-Danish speaking passengers who for one reason or another have not bought the correct ticket, among other things Due to insufficient information in English, the Board of Appeal finds that Metro Service has to waive the complainants’ control fees”

As you can see, there have recently been a lot of complaints from non-Danish speaking passengers which supports the argument that the Metro service is not straightforward to use as a non-Danish speaking tourist. Therefore, I would like to uphold my argument that it is reasonable for me to accept the advice of an employee of the Metro service, and so I do not think it is fair to pay a fine based upon the incorrect information provided to me.

I would gratefully like to ask the Appeal Board to consider my case and to waive the fine of 750 DKK which I believe is unfair based upon the provision of incorrect information by the Metro service. ”

### **Indklagede har afslutningsvist anført:**

*“In our reply to the Board of Appeal of 7 June, we have written that the fare evasion ticket was issued on 28 February instead of the correct 28th of May. This is obviously a mistake and we are sorry.*

We have carefully read the complainant's latest mail and understand that the complainant got help from someone who helped him purchase a 3-day ticket It is still our argument that this has not been a Metro-related person since the complainant has bought his ticket in a vending machine located in an area in the airport where Metro's staff do not operate.

In addition, it is also our conviction that even if you have received assistance at the machine, you should still check that you have received what you expected, as we also believe that if the complainant had looked at his ticket, he would have read that the ticket was valid for 72 hours.

But we do not understand the complainant's argument that he misunderstands 72 hours compared to 3 days. The complainant bought his ticket on May 25 at 16:53. If the ticket had been valid for 3 days, it would have been valid on 25 May, 26 May and 27 May. The fare evasion ticket was issued on May 28 at 21.22, which is 76 hours and 22 minutes, or 3 days, 4 hours and 22 minutes after purchase.

In view of the above, as well as with reference to previously submitted answers, we maintain our claim for payment of fare evasion ticket no. xxx of DKK 750, - "

På ankenævnets vegne



Tine Vuust  
Nævnensformand