

AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

- Journalnummer:** 2017-0196
- Klageren:** XX, YY og dennes ægtefælle ZZ
England
- Indklagede:** Metroselskabet I/S v/Metro Service A/S
CVRnummer: 21263834
- Klagen vedrører:** Kontrolafgifter på hver 750 kr. for manglende billetter, idet de kun medtog én billet som gældende for fire rejsende fra automaten.
- Parternes krav:** Klagerne ønsker kontrolafgifterne annulleret
Indklagede fastholder disse, men har under ankenævns sagen nedsat den ene af ægtefællernes kontrolafgift til 125 kr.
- 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:

Metro Service er berettiget til at opretholde kravet om klagernes betaling af kontrolafgifterne på hver 750 kr. samt den nedskrevne kontrolafgift på 125 kr.

Klagerne skal betale beløbene til Metro Service, som sender dem et girokort.

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

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SAGENS OMSTÆNDIGHEDER:

Den 1. juni 2017 skulle klagerne retur til lufthavnen efter en ferie i København. De var to ægtepar, som rejste sammen, og forinden de steg om bord på metroen, købte de fire billetter i billetautomaten på Christianshavns st.

Der er fremlagt udskrift fra automaten, som viser, at der kl. 08:20:27 – 08:20:37 blev solgt fire billetter á 36 kr., i alt 144 kr. på betalingskort.

TVM	TID	TRANS_ID	BILLET_ID	RU	PAPIR_ID	KR	VARENR	VARE	KORTID
111	2017.06.01 08:01:39	321133	12397	1	00417003264705	24	11010210	HT-Voksen 2 zones	000053
111	2017.06.01 08:01:42	321133	12398	1	00417003264704	24	11010210	HT-Voksen 2 zones	000053
111	2017.06.01 08:09:05	321134	12399	1	00417003264701	24	11010210	HT-Voksen 2 zones	000055
111	2017.06.01 08:15:33	321135	12400	1	00417003264698	24	11010210	HT-Voksen 2 zones	
111	2017.06.01 08:15:37	321135	12401	1	00417003264697	24	11010210	HT-Voksen 2 zones	
111	2017.06.01 08:20:27	321136	12402	1	00417003264696	36	11010310	HT-Voksen 3 zones	000047
111	2017.06.01 08:20:31	321136	12403	1	00417003264695	36	11010310	HT-Voksen 3 zones	000047
111	2017.06.01 08:20:34	321136	12404	1	00417003264694	36	11010310	HT-Voksen 3 zones	000047
111	2017.06.01 08:20:37	321136	12405	1	00417003264693	36	11010310	HT-Voksen 3 zones	000047
111	2017.06.01 08:33:23	321137	12406	1	00417003264692	84	11010810	HT-Voksen 8 zones	000045
111	2017.06.01 08:35:19	321138	12407	1	00417003264691	36	11010310	HT-Voksen 3 zones	
111	2017.06.01 08:40:49	321139	12408	1	00417003264690	24	11010210	HT-Voksen 2 zones	000045
111	2017.06.01 08:47:54	321140	12409	1	00417003264689	48	11010410	HT-Voksen 4 zones	000045
111	2017.06.01 08:49:09	321141	12410	1	00417003264688	24	11010210	HT-Voksen 2 zones	000045
111	2017.06.01 08:53:30	321142	12411	1	00417003264685	48	11010410	HT-Voksen 4 zones	000055
111	2017.06.01 08:58:10	321143	12412	1	00417003264684	84	11010810	HT-Voksen 8 zones	000045
111	2017.06.01 08:59:45	321144	12413	1	00417003264683	12	14010010	Movia Tillægsbillet Voksen	000045

I metroens billetautomater udskrives billetterne separat.



Eksempel

Klagerne medtog en billet til 36 kr. og steg om bord på metroen. Efter denne havde forladt Femøren st., var der kontrol, og da de fire rejsende kun kunne forevise én gyldig billet, blev der mellem kl. 08:36 og kl. 08:47 udstedt en kontrolafgift til dem hver på 750 kr.

Stewarden skrev:

”Note>pax var samrejsende med sin kone og et andet vennepar. der var kun af dem der kunne fremvise en billet. de mente bestemt at de havde kobt til dem alle fire. de vil kontakte kundeservice. referer til afgifts nr xxx”

I den efterfølgende klage til Metro Service gjorde de gældende, at der havde været fejl ved billetautomaten og vedlagde bankudskrift, hvoraf fremgik, at der var trukket 144 kr. på kontoen på Metrostation Christianshavn.

Metro Service fastholdt kontrolafgifterne og begrundede dette med, at der kan gå op til 12 sekunder mellem billetters udprintning, at disse er upersonlige, og at bankkviktering ikke kan godtages som rejsehjemmel.

Under ankenævns sagen har Metro Service fremlagt log fra billetautomaten og nedskrevet den ene af ægtefællernes kontrolafgift til 125 kr.

ANKENÆVNETS BEGRUNDELSE:

Klagerne kunne ved kontrollen i metroen kun forevise én gyldig billet.

Metro Service har fremlagt data fra billetautomaten på Christianshavn st., som viser køb af fire billetter til i alt 144 kr. udskrevet med i alt 10 sekunders mellemrum i tidsrummet 08:20:27 - 08:20:37. Imidlertid medtog klagerne kun én billet, hvoraf det på engelsk fremgik, at den var gyldig for "1 adult" samt beløbet 36 DKK.

Ankenævnet lægger til grund, at der ikke var fejl ved automaten, og da kontrolafgifterne blev udskrevet mellem kl. 08:36 og 08:47, lægger ankenævnet videre til grund, at loggen fra automaten vedrører salget og udstedelsen af de fire billetter til klagerne.

Ankenævnet lægger endeligt til grund, at klagerne ikke undersøgte billetten nøjere og derfor ikke sikrede sig, at det købte svarede til det udleverede, således som det fremgår af de landsdækkende rejseregler.

Det beroede herefter på klagerens eget forhold, at de ikke var opmærksomme på, at de kun medtog den ene af i alt fire billetter.

Ankenævnet finder dog, at det vil være hensigtsmæssigt, hvis der i købsflow'et anføres, at kunden skal være opmærksom på, at der udskrives én billet per rejsende.

Den omstændighed, at klagerne efterfølgende har fremlagt bankudskrift på et køb til 144 kr., kan efter ankenævnets faste praksis ikke medtages i bedømmelsen af, om de var i besiddelse af gyldig rejsehjemmel ved kontrollen, da billetten skal kunne forevises ved kontrollen.

Det bemærkes, at pligten til at betale kontrolafgift ikke er betinget af, om passageren har forsøgt at unddrage sig betaling. Dette er et område med stor mulighed for omgåelse af reglerne om at forevise gyldig billet, hvis en bankkviktering accepteres som billet, hvorfor ankenævnet finder, at der ikke har foreligget sådanne særlige omstændigheder, at klagerne skal fritages for at betale de pålagte kontrolafgifter.

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.

”2.4. Brug af rejsehjemmel

Kunden skal ved modtagelsen af rejsehjemmel sikre sig, at det udleverede svarer til det ønskede.”

PARTERNES ARGUMENTER OVER FOR ANKENÆVNEN:

Klagerne anfører følgende:

“We consider that the policy of not accepting bank statements as proof of purchase to be highly unfair and we feel this policy, in effect, renders the Metro’s appeals process purposeless.

We arrived in Copenhagen on Sunday 28th May 2017, travelling as a four (two married couples travelling together). [udeladt]

CPH Living hotel can verify that we were visiting as a group of four and they can also verify the dates we arrived and left, as can Booking.Com, the company through which we booked CPH Living and Easy Jet who we flew with from Manchester to Copenhagen and back again. The Metro Officer who identified we did not have the correct ticket for the amount of money we had paid, witnessed in person, that we were travelling as a four (and took photographs of three of our passports). We have many photographs evidencing that we travelled as a group of four. In addition we made reservations, for the four of us, in advance, for dining at [xxxx] on Tuesday 30th May 2017 and [zzzzz] 31st May 2017, these restaurants may still have records of our bookings. We can submit this further evidence should it be required.

The bank statement of [udeladt] shows the date and time the ticket was bought and evidences that [udeladt] paid the correct amount for the four of us travelling together. If this is not considered acceptable evidence please could it be explained, in more detail, why this is not acceptable and what other evidence would be accepted?

On 1st June 2017, when the Metro Officer identified that we did not have the correct ticket for the amount of money we paid, we were travelling to the airport to catch our plane back to [England]. We had timed our travel so that we would arrive at the airport at the correct time to check in. Our focus was on getting to the airport on time. We did not anticipate that the ticket machine would be faulty and not print the correct ticket for the amount of money we paid.

The Metro service has suggested that we should have used a call point at the ticket machine to ask for help as soon as the ticket had been bought. However, [udeladt] paid for a ticket for four people with his credit

card and he verified when paying, that the correct amount for four people was being deducted (he knew this because we had used the train several times during our stay and paid for four people each and every time so he was aware what the cost for four people should be). Therefore we were not alerted to the error on the ticket itself because we had paid the correct price for four people. There was nothing to alert us to check the ticket.

We did not think the ticket would be wrong, because we paid the correct price for four people, as is evidenced by the bank statement. We did not evade any fare because we paid the full fare for all the four people travelling.

We are extremely disappointed that the Metro service continues to accuse us of “fare evasion” in these circumstances. We all enjoyed our stay in your wonderful city very much and had talked together about how efficient we thought your travel system was, compared to our own in Britain.

In addition, if this appeal is not accepted, we would politely suggest that the Metro places, by all ticket machines, large signs in different languages, advising that the ticket machine could be faulty and take the correct money from you but then issue you with an incorrect ticket. The use of faulty ticket machines plus an appeals process that does not appear to accept any reasonable evidence does raise the suspicion that this is a profit making strategy for the Metro, at the expense of customer service and customer trust.”

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 which are placed at all our station contain travel information in both English and Danish.

Sådan køber du en billet
How to buy a ticket

1. **Den målskærm på Billetavisen, hvor du køber biljet.**
 2. **Fuld skræm, hvad du er på vej til, og til hvilken. For du kan ikke returnere en billet, hvis du rejser til et andet sted end det destination, der er angivet på billetavisen, uanset om du rejser med bus, tog eller metro.**
 3. **Udvalgt biljet, der viser biljet nummer, kørselsdato og -tidspunkt. Hvis du vælger at køber en gruppebiljet, så kan du også vælge biljet nummer for hver person.**
- De tre vigtigste dele af biljetet er biljet nummer, kørselsdato og -tidspunkt.**
1. **Ticket number on the selected bus pass screen.**
 2. **Full screen showing your destination to which the ticket is valid only for the purpose of the selected through. A ticket is non-transferable when you travel to any other destination than where.**
 3. **Buy ticket according to the number of seats selected by the color code. You can buy tickets for 2, 3, 4, 5 or 6 people.**
- The three main parts of the ticket are the ticket number, the date and time of travel.**



Alle biljetter gælder på alle linjer i den åbne tidsrum, bortset fra omrejsbiljetter.
Der er ingen særlige betingelser for biljetter til destinationsbusser og tog.

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Find vej
Plan your route

Rejseplanen City planer
Med Rejseplanen kan du planlægge din rute til destinationen, hvor du rejser. Du kan også se, hvad det koster at rejse, og hvor lang tid det tager at rejse.

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Kort og billetter
Tickets and travel cards

- Rejsekort**
A travel card that allows you to travel on public transport in Copenhagen for a fixed period of time. It is valid on all bus, metro and train lines within the city limits.
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Rejseinformation
Travel information

- Rejseinformation**
Travel information including timetables, fares, and service details for different transport modes.
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Kontrolafgift

Penalty fares

Husk, at det er dit ansvar inden påstigning at have gyldig billet eller gyldigt kort til rejsen for både dig og dine eventuelle ledsagere.

Manglende billet eller kort samt rejse i spærretiden for dem, der rejser på pensionistkort eller med cykel, medfører en kontrolafgift, og videre rejse med cykel i spærretiden er ikke tilladt. Spærretid for cykler er alle hverdage kl. 7-9 og kl. 15:30-17:30 undtagen i juni, juli og august. For pensionistkort er spærretiden alle hverdage kl. 7-9.

Vi henviser til www.dinoffentligetransport.dk samt rejse-reglerne for gældende satser på kontrolafgifter og yderligere information.

Remember that you are responsible for ensuring that you have a valid ticket or valid card for the trip before boarding, both for you and any accompanying travellers. A penalty fare will be charged for travelling without a valid ticket or card.

A penalty fare will also be charged for travel using a pensioner pass outside of the valid hours and for travelling with a bicycle outside of the permitted hours – please note that continued travel with a bicycle during these hours will not be permitted. Travel with bicycles is not permitted on weekdays between the hours of 7:00 am - 9:00am and 3:30pm - 5:30pm, except in the months of June, July and August. Pensioner passes cannot be used for travel on weekdays between the hours of 7:00am - 9:00am.

Please refer to www.dinoffentligetransport.dk and the travel rules for the applicable penalty fares and additional information.

Alle billetter gælder til både havnebus, bus, tog og metro.

All tickets are valid for travel on harbour buses, buses, trains and the Metro.

Husk at have en gyldig billet, inden du står på – du kan ikke købe billetter i metrotoget.

Remember to have a valid ticket before boarding – you cannot buy tickets on a Metro train.

The Metro staff is instructed 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.

In case of questions or problems call points can be found on all of our ticket vending machines, as well as yellow call points can be found in several other places in every one of our stations. These call points can be used if the passenger requires assistance or guidance in case of experiencing problems. 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 her company was met by a steward inspecting tickets on the 1st of June 2017 between Femøren station and Lufthavnen station. The company of four presented only one ticket, and a fare evasion ticket was issued to the complainant, her husband and a friend, according to the travel regulations.

The complainant informs, that she bought four tickets from the machine at Christianshavn station, but that she only got one ticket due to a fault with the ticket vending machine.

Based on this information, we have contacted our technical department who is responsible for the ticket vending machine at Christianshavn station. They have provided us with the transaction scrip below, where ordered and delivered tickets are shown. We assume that the order in question is the one marked with red.

This scrip shows that there have been ordered and delivered several other ticket between 08:00:00 and 09:00:00 June the 1st. 2017.

We have not received any other inquiries regarding missing delivery of tickets or customers who had complaint regard the ticket vending machine.

At Metro all tickets are printed individually. This is done so that customers do not have to travel together, but can travel individually if they wish. All tickets bought from a ticket vending machine at a metro station are valid for trains and buses.

If a passenger makes an order/purchase for more than one ticket there are 12 seconds between deliveries. When the machine is busy printing, a message appears on the screen display and the light flashes in the 'drawer' where the tickets are delivered.

The complainant says that she paid 144, - DKK in the ticket machine. If the complainant had checked the print that came out of the machine, the complainant would immediately have known that the ticket she held in her hand had a value of 36, - DKK and addition to this was a ticket for a single person.

From our tickets it is easy to see, that each tickets represents a ticket for 1 (one) person and the price for this ticket.

Example of a ticket please see below (please notice that the shown ticket is for 2 zones which is why the price is 24,00 DKK and not 36,00 DKK as the complaints who needed a 3 zone ticket for the journey to the airport): [udeladt]

As earlier mentioned you must be able to present a valid ticket when inspected by a steward. If not, you must accept receiving a fine. Tickets are impersonal, and only valid for the holder at the time of inspection, subsequent presentation is not accepted and for the same reason nor a bank statement can be accepted.

Considering the above, we find the fare evasion tickets issued correctly.

Unfortunately, the employee in customer service who has handled this specific case has not been aware that 2 of the 3 issued fines are for persons with the same family and residence address. In such cases the second person will get a reduced fine of DKK 125,-.

We apologize that one of the [udeladt] fare evasion tickets was not reduced when the case was handled the first time.”

På ankenævnets vegne



Tine Vuust
Nævnshoved