

## AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

- Journalnummer:** 2019-0035
- Klageren:** XX  
Tyskland
- Indklagede:  
CVRnummer:** Metroselskabet I/S v/Metro Service A/S  
21 26 38 34
- Klagen vedrører:** Kontrolafgift på 750 kr. grundet manglende billet – klageren kom med elevatoren fra gadeplan og kunne ikke finde en billetautomat på peronen, men steg alligevel på metroen, da han troede, at han kunne købe en billet ombord
- Parternes krav:** Klageren ønsker, at ankenævnet annullerer kontrolafgiften mod betaling af billetens pris
- Indklagede fastholder kontrolafgiften
- Ankenævnets sammensætning:** Nævnensformand, landsdommer Tine Vuust  
Rasmus Markussen  
Torben Steenberg  
Asra Stinus  
Helle Berg Johansen

Ankenævnet for Bus, Tog og Metro har på sit møde den 19. juni 2019 truffet følgende

### **AFGØRELSE:**

Metroselskabet I/S v/Metro Service A/S er berettiget til at opretholde kravet om betaling af kontrolafgiften på 750 kr.

Beløbet skal betales til Metroselskabet I/S v/Metro Service A/S, som sender betalingsoplysninger 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 fx på [www.domstol.dk](http://www.domstol.dk), [www.advokatnoeglen.dk](http://www.advokatnoeglen.dk) og /eller eget forsikringssselskab om eventuel forsikringsretshjælp.

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### **SAGENS OMSTÆNDIGHEDER:**

Klageren er bosat i Tyskland og besøgte Danmark som turist fra den 28. december 2018 til den 3. januar 2019. Ved ankomst til Københavns Lufthavn fik han hjælp til at købe en enkeltbillet til at rejse med metroen til centrum, og herefter benyttede han sig af et Copenhagen Card, som han havde erhvervet på forhånd.

På sin returrejse til lufthavnen d. 3. januar 2019 skulle han købe en enkeltbillet, men på Nørreport st. kunne han ikke finde billetautomaten, fordi han tog elevatoren direkte fra gadeplan til peronen. Han antog derfor, at man kunne købe billet i toget, hvorfor han steg ombord på metroen uden billet.

Efter Metroen havde forladt Nørreport st. var der kontrol, og klageren blev pålagt en kontrolafgift på 750 kr. for at rejse uden rejsehjemmel.

Klageren anmodede Metro Service om at frafalde kontrolafgiften med den begrundelse, at det ikke var hans intention at rejse uden billet, da han troede, at han kunne købe denne ombord, og han var villig til at betale dobbelt billetpris for sin fejltagelse.

Metro Service fastholdt den 11. januar 2019 kontrolafgiften med henvisning til selvbetjeningsprincippet og til, at information om billetsystemet var tilgængeligt på engelsk på informationstavler på stationen, samt at han kunne have benyttet det gule punkt til at få hjælp.

Metro Service har indsendt et billede af den information, der gives på Metrodørene:

”



Samt af den information, der gives i de to elevatorer på Nørreport st.:



Og:



### ANKENÆVNETS BEGRUNDELSE:

Klageren kunne ved kontrollen den 3. januar 2019 ikke forevise nogen rejsehjemmel, og kontrolafgiften blev dermed pålagt med rette.

Det er passagerers eget ansvar at sikre sig gyldig rejsehjemmel inden ombordstigning på metroen, hvilket også er skiltet på engelsk ved perrondørene og på tavlen på selve perronen, og der findes billetautomater på gadeniveau på Nørreport st. og på etagen over metroperronen.

Pligten til at betale kontrolafgift er ikke betinget af, om passageren bevidst har forsøgt at unddrage sig betaling for rejsen, og da rejse på dette er et område med mulighed for omgåelse af reglerne om at kunne forevise gyldig rejsehjemmel, er det ankenævnets opfattelse, at der ikke har foreligget sådanne særlig omstændigheder, at klageren skal fritages for kontrolafgiften.

Ankenævnet anbefaler dog, at Metro Service overvejer, om der i elevatoren kan skiltes på engelsk med "Tickets" efter "Billetter" i stedet for blot et piktogram og med større engelsk tekst på mærkaten uden på selve elevatoren, samt at der skiltes bedre på perronen om, hvor der kan købes billetter.

### 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 forevise 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.

I de fælles landsdækkende rejseregler, som trafikvirksomhederne har vedtaget pr. 1. marts 2018 og opdateret 1. november 2018, fremgår hjemmelen til udstedelse af en kontrolafgift.

Det anføres således bl.a., at passagerer, 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:**

" 1. I was travelling to Copenhagen for 7 days including both my arrival on 28-Dec-2018 in the night and departure on 3-Jan-2019 in the morning.  
2. I already had Copenhagen card (voucher number : xx) for the 3 days to explore the city (from 29-Dec till 31-Dec), on 1-Jan and 2-Jan I did not travel by any means of transport nor I visited any places.  
3. On the day of my departure 3-Jan, unaware of the fact that there is no way of getting ticket on board, I went to metro platform by Lift and when I checked on platform for ticket machine I could not find one, hence I assumed I would be able to get it in the metro (which I now understand was my biggest mistake)  
4. First thing on board I checked for ticket machine and there was none, I saw ticket checker and approached him to ask for a ticket, which I later came to know was not possible. I showed him my CPH card just to confirm him that I am not travelling with no ticket at all, but it was a genuine mistake happened.  
5. Now I kindly request you cancel the ticket issued to me considering the fact that I am not living in CPH and did not require to buy ticket to travel the city except on the day of arrival, which I managed to buy with the help of security guard at the entrance. I am living in Germany for my volunteering social year and definitely would not be doing such thing knowing schwarzfahren (without ticket) costs in any country, for me this is almost 30% of my stipend."

### **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 himself 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 to the ticket inspectors when asked for.

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.dinoffentligetransport.dk](http://www.dinoffentligetransport.dk) and on our webpage [www.m.dk](http://www.m.dk) as well as on the information boards which are placed at every station. The information boards contain travel information in both English and Danish.

The complainant has not informed which of the 2 elevators at Nørreport station, he used.

On the glass in front of the elevator from Torvehallerne – the one going directly to the platform - following stick are to be found:

Elevatoren er til  
de passagerer der har  
brug for den



**Mandag til fredag  
kl. 7-9 og  
15.30-17.30**

Du må desværre ikke tage din cykel med  
i Metroen i disse tidsrum pga. pladsmangel.  
I hele juni, juli og august må du dog have  
cyklen med på alle tider af døgnet.



**Elevatoren  
stopper ikke ved  
billetautomaterne.  
Benyt den anden  
elevators.**

This lift does not stop at the ticket machines.  
Please use the other lift.



And on and in the other Metro elevator following information/pictograms are to be found:



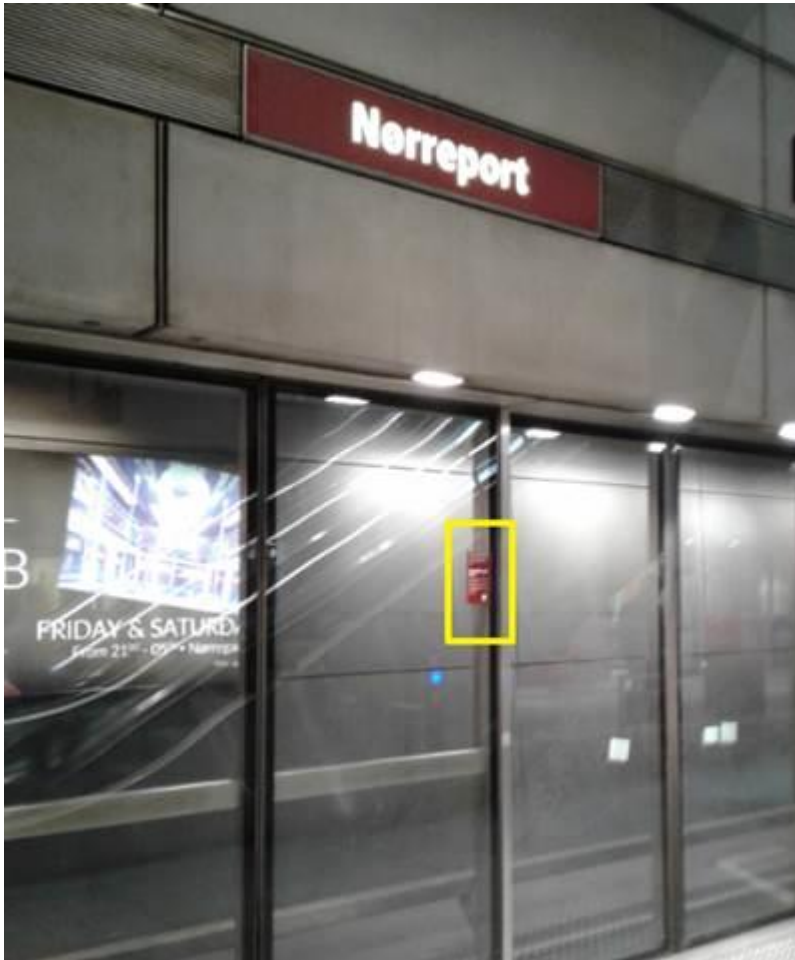






In case the complainant did not understand the word “Billetter” or the pictogram for tickets (the word Billetter was followed by to 2 pictograms - one for tickets and one for information) and he did not know where to buy a ticket, he could have chosen to stop at level -1 for information – the **i** pictogram is an international one.

Before entering the metro train the passengers are meet with the sticks below – the sticks are placed at all platform screen doors.





**Husk din billet**

Husk din billet, inden du tager metroen

Sørg for at have modtaget din mobil billet, inden du stiger ombord

Hvis du rejser uden gyldig billet, vil du ved kontrol få en afgift på 750 kr

God tur

**Remember your ticket**

Please remember your ticket before entering the metro

Make sure you have received your mobile ticket before entering

Traveling without a valid ticket will lead to a DKK 750 fine

Enjoy your trip



As earlier mentioned there are information boards at all stations (both on concourse level and the platform). On the information board it is – among other things – stated not to enter the metro without a valid ticket and the consequence if doing so - and where help could be reached if any questions (the yellow call points).



Alle billetter gælder til både hanebus,  
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.



#### 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 pensionerkort 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 pensioner-  
kort er spærretiden alle hverdage kl. 7-9.

Vi henviser til [www.dinoffentligetransport.dk](http://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](http://www.dinoffentligetransport.dk) and the  
travel rules for the applicable penalty fares and additional  
information.



#### Kontakt og information

Contact and information

Du kan finde mere information om rejseregler m.v. på  
[www.dinoffentligetransport.dk](http://www.dinoffentligetransport.dk) eller ved at benytte de gule  
opkaldspunkter, som du finder på perroner og i tog, eller  
ved at benytte infoknapperne på billetautomaten.

Du kan også ringe til kundeservice på telefon 70 15 70 00.

You can find more information about travel rules, etc. at  
[www.dinoffentligetransport.dk](http://www.dinoffentligetransport.dk), by using the yellow call  
points found on the platforms and in the trains, or by using  
the information buttons on the ticket machine.

You can also call customer service on (+45) 70 15 70 00.

The public transportation in greater Copenhagen is based on self-service, and as earlier mentioned and written in our first answer to the complainant and in the start of this e-mail, it is the passengers responsibility to be in possession of a valid ticket before boarding the metro.

We must point out that we do not take into consideration whether the lack of a valid ticket is due to a conscious or unconscious act. Since we want to treat all passengers equally, we only relate to the fact that it is the customer's responsibility - before boarding the train - to secure a valid ticket, which can be presented on demand.

Finally we must refer to earlier decisions made by the Board of Appel in similar cases, where passengers have boarded the metro without a valid ticket - <https://www.abtm.dk/afgorelser/?showcat=13263>

Based on the above we find the fare evasion ticket correctly issued as the complainant could not show a valid ticket when asked for and this is why we maintain our claim of DKK 750,-."

### **Hertil har klageren bemærket:**

"I understand the below reasons/ explanation by Metro service, however I would kindly request to recognize below my comments regarding request of cancelling fine amount of DKK 750 :

1.information is available on [www.dinoffentligetransport.dk](http://www.dinoffentligetransport.dk) and on our webpage [www.m.dk](http://www.m.dk) :

My comment : Kindly consider that it is not always possible to check site everytime, instead a person always checks for personal or boards with information written in notable font size. I can see from the photos shared by Metro service that the information was there, but unfortunately it was just like a footnote in a very small font and I could not find it at that time because most of the things were in Danish and it was simply confusing for me as I was first time in Denmark and also only second time in Metro station.

As I mentioned earlier I took help at airport exit gate from a person to buy ticket, which I could not on Nørreport.

Also kindly consider I had CPH card because I did not wanted to struggle with the tickets upon arrival, while exploring the city. I thought I ll manage to buy a single ticket to airport on my last day, but now I see I was wrong.

2.The complainant has not informed which of the 2 elevators at Nørreport station, he used:

My comment : I do not remember it now. And even if they have sent me photos of where the information was stated in English, it is actually impossible to locate it, it is written in very small font and just like a footnote.

WHen you see everywhere and everything is written in language other than English you get confused and miss so small details.

3.Finally we must refer to earlier decisions made by the Board of Appel in similar cases:

My comment : I checked it and found most of the tickets issued to tourists are more or less due to same reason, even if we genuinely try to buy a ticket, it is simply a language barrier and unknown things like no ticket machine on platform.

Therefore I would like to keep my claim highlighting the fact that I tried to find a ticket machine and as there was none on platform nor any tourist friendly information board for confused person, kindly cancel the issued ticket.

Also I would still like to pay the full amount of ticket, but DKK 750 is much heavy amount for mistake happened unknowingly."

### **Hertil har indklagede bemærket:**

"It is correct that the information is available on [www.dinoffentligetransport.dk](http://www.dinoffentligetransport.dk) and on our webpage, but it is also available at the station.

Furthermore we must point out, that all information at the station can be found in both Danish and English.

Being a tourist and not acquaintance with the ticket system or the stations it must be expected that he or she show greater attention and try to check out the rules before boarding the train. The complainant could have done so by checking ex. the information board.

The information that it was not possible to buy ticket at the platform, was written *in English* at the sticker on the elevator.

We do not understand all the complainants references that text are written in language other than English – we find that all necessary and important information can be found both in Danish and in English.

We must again point out that we do not take into consideration whether the lack of a valid ticket is due to a conscious or unconscious act. Since we want to treat all passengers equally, we only relate to the fact that it is the customer's responsibility - before boarding the train - to secure a valid ticket, which can be presented on demand.

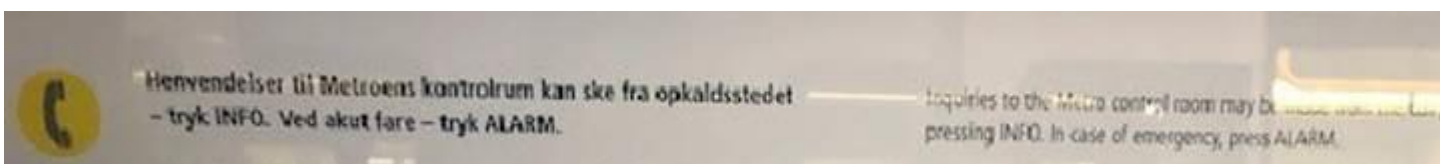
If the complainant had looked at one of the information boards he would also have found the guidance on how to get information if he could not find anybody to ask for help at the platform.

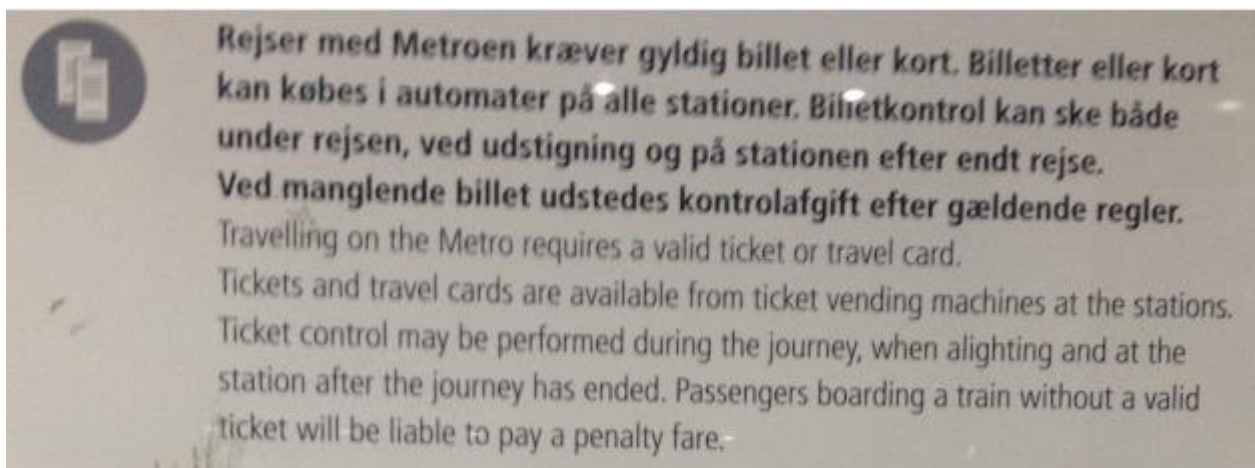






On the boards above following information can be found:





I apologize for the pure quality of the above pictures.

We must again state that all information at the metro stations are in both Danish and English.

There are no graduated rates depending on the offence. The amount for a fare evasion ticket issued to an adults is fixed at DKK 750,-.

It is indisputable that the control fee has been correctly issued according to the Joint National Travel Regulations, were it is stated that the passenger must be in possession of a valid ticket which can be presented when asked for by the inspector - otherwise an inspection fee (fare evasion ticket) must be paid.

We maintain our claim of DKK 750,-."

På ankenævnets vegne

Tine Vuust  
Nævnensformand