

## AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

- Journalnummer:** 2019-0274
- Klageren:** XX på egen vegne og på vegne af YY og ZZ  
England
- Indklagede:** Metroselskabet I/S v/Metro Service A/S  
**CVR-nummer:** 21263834
- Klagen vedrører:** Kontrolafgift til dem hver på 750 kr. grundet manglende billetter
- Parternes krav:** Klageren ønsker, at ankenævnet annullerer kontrolafgifterne, og gør gældende, at de ikke kunne finde nogen billetautomat på Nørreport st., at de forsøgte at downloade en app til at købe billetter, og at de ville stå af på næste station for dér at lede efter billetautomater, men blev kontrolleret forinden
- Indklagede fastholder kontrolafgifterne
- 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 1. maj 2020 truffet følgende

### **AFGØRELSE:**

Metro Service er berettiget til at opretholde kravet om betaling af kontrolafgifterne på 750 kr. og sender betalingsoplysninger til klageren og de medrejsende.

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 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 har oplyst, at han og de to medrejsende den 5. november 2019 var på forretningsrejse i København, og at det var første gang de skulle rejse med Metroen.

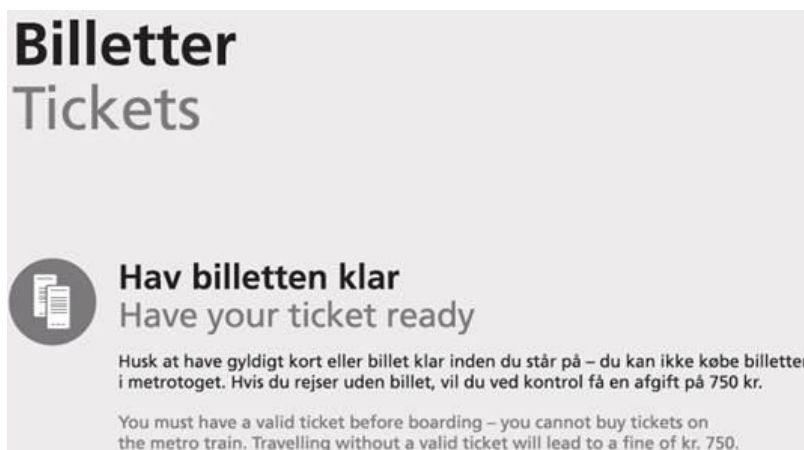
Da de skulle retur med fly gik de ind i metrosystemet fra gadeniveau på Nørreport st., men de kunne ikke finde nogen billetautomater eller skiltning om automater, hverken ved indgangen eller undervejs på de tre etager ned med trapperne til perronen.

Ifølge klageren installerede kollegaen DOT-app'en på sin telefon og igangsatte et billetkøb, men på det tidspunkt ankom et Metrotog, og da de var sent på den for at nå deres fly, steg de ombord. Kollegaen fortsatte med at forsøge at købe billet, men transaktionen mislykkedes. Da de indså, at de ikke kunne fortsætte til lufthavnen uden billetter, besluttede de at finde en billetautomat på den næste station, som var første stop efter Nørreport st. De steg af metroen, men blev kontrolret og blev hver pålagt en kontrolafgift på 750 kr. udstedt fra Nørreport st. til Lufthavnen st.


I den efterfølgende klage til Metro Service gjorde klageren gældende som ovenfor og tilføjede, at deres firma dækkede deres rejseomkostninger, så de havde ikke noget at vinde ved at forsøge at undgå at betale for billetterne. Rejser i ukendte lande kan være udfordrende, især hvis det ikke er klart, hvor man kan købe billetter, og app-teknologi er upålidelig. Mens deres firma dækker rejseomkostninger, betaler det ikke for bøder, så de er alle nødt til at finde pengene. I London er 750 kr., mere end det koster at rejse til og fra arbejde hver dag i en uge, og det er cirka to ugers frokost.

Metro Service fastholdt kontrolafgifterne med den begrundelse, at der var skiltning på engelsk om billetter og zoner på perronens tavle, og at god eller ond tro ikke kan tages i betragtning.

### **Skiltningen på perronens informationstavle:**



**Billetter**  
Tickets

 **Hav billetten klar**  
Have your ticket ready

Husk at have gyldigt kort eller billet klar inden du står på – du kan ikke købe billetter i metrotoget. Hvis du rejser uden billet, vil du ved kontrol få en afgift på 750 kr.

You must have a valid ticket before boarding – you cannot buy tickets on the metro train. Travelling without a valid ticket will lead to a fine of kr. 750.

## Skiltning på glassdørene ind til Metroen:



### ANKENÆVNETS BEGRUNDELSE:

Klageren og de medrejsende havde ikke købt billet, inden de steg om bord på Metroen, og de kunne derfor ikke forevise nogen rejsehjemmel ved den efterfølgende kontrol. Kontrolafgifterne 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 informationstavlen på selve perronen. Dette var klageren og hans medrejsende da også opmærksomme på, men de valgte på grund af deres eget tidspres at stige på metroen uden forudgående køb af billet.

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 de rejsende skal fritages for kontrolafgiften.

Der findes billetautomater på gadeniveau på Nørreport st. og på etagen over metroperronen, men på baggrund af at ankenævnet fortsat modtager klager fra passagerer og især turister, som ikke er opmærksom på skiltningen på elevatorerne og perronen, henstiller ankenævnet til Metro Service om på en endnu tydeligere måde at skilte med, at billetautomaten ikke befinder sig på selve perronen, og hvor der i stedet kan købes billetter.

Ankenævnet bemærker i den forbindelse, at ankenævnet senest i afgørelse fra 19. juni 2019 (2019-0035) anbefalede Metro Service at overveje, om der i elevatoren kan skiltes på engelsk med "Tickets" efter "Billetter" i stedet for blot et piktogram og med større engelsk tekst på mærkatet 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 i lov om ændring af lov om trafikkselskaber og jernbaneloven, fremgår jernbanevirksomhedernes adgang til at opkræve kontrolafgift og ekspeditionsgebyr for passagerer, der ikke foreviser gyldig rejsehjemmel (billetter og kort).

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, præciseres hjemmelen til at udstede 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. Det gælder også, hvis passageren har købt rejsehjemmel via en mobil enhed, der ikke kan kontrolleres, f.eks. hvis denne er løbet tør for strøm eller gået i stykker. Det er passagerens ansvar, at rejsehjemlen er endeligt modtaget på den mobile enhed før påstigning. Som passager uden gyldig rejsehjemmel betragtes også passager, der benytter kort med begrænset tidsgyldighed (f.eks. pensionistkort) uden for kortets gyldighedstid, eller hvis andre rejsetidsbegrænsninger ikke overholdes (f.eks. for hvornår cykler må medtages). Passagerer, der rejser alene på andres rejsekort personligt eller med en anden kundetype, end passageren er berettiget til, rejser uden gyldig rejsehjemmel. Kortindehaveren skal altid selv være checket ind på kortet på de rejser, hvor et rejsekort personligt benyttes. Rejsekortet må endvidere ikke være så slidt/tildækket, at navnet ikke kan læses.

## **PARTERNES ARGUMENTER OVER FOR ANKENÆVNEN:**

### **Klageren anfører følgende:**

"We are of course happy to pay the costs of our tickets.

Let me explain what happened here. My team visited our colleagues in Copenhagen earlier this year on business. This was only our second time in the city and the first time using the Metro system and we all travelled together.

We were leaving Copenhagen on Tuesday evening and were running late for our flight. We entered the Metro system from street level at Noreport but were unable to find ticketing terminals at the entrances or anywhere on the concourse, stairs or escalators leading down to the platforms. We travelled down at least 3 flights of stairs to reach the platform. There are no ticket terminals on any of these locations and we could see no signage pointing us to any ticket terminals either.

Having failed to locate a ticket machine one of my colleagues installed the Dot ticketing app on his phone and initiated a purchase. <https://apps.apple.com/dk/app/dot-mobilbilletter/id494862453>. At that point,

a train arrived and since we were running late for our flight we boarded. My colleague continued with the transaction but the transaction failed and we were unable to purchase our tickets via the Dot app.

Realising that we could not continue onto the airport without tickets we disembarked and resolved to locate a ticket machine at the next station. We had only travelled one station on from Nørreport at this time. There was no intention to try and travel all the way to the airport without tickets. Why else would we get off the train at that point?

At this point we were apprehended by one of your guards who demanded that we pay a fine. We offered to buy tickets if the guard could show us where the machine was, but her refused.

I would like to ask if you would consider waiving the fines here. We did not intend to travel without tickets, which is why we got off the train after one stop - to purchase them. Our company covers our travel costs so we (as everyday people) have nothing to gain by trying to avoid paying fares. Travel in unfamiliar countries can be challenging especially if it is not clear where to buy tickets from and App technology is unreliable.

Whilst our company covers travel costs, it will not pay for fines so we will all personally have to find the money. In London, 750DK is more than it costs to travel in and out of work every day for a week. And is about two week's worth of food at lunch. So to me it seems the fine is wholly disproportionate to the offence.

I hope you will give this request due consideration. We are not dishonest people and do not seek to exploit the system for personal gain.

These fines are mean and wholly disproportionate. It is a cruel way to treat visitors to the city who do not seek to exploit the 'self-service' system for personal gain.

Of course, we would be glad to settle the cost of the tickets from Nørreport to Copenhagen Airport. But fines of more than 10 times the cost of a single ticket are extortionate and unfair.

The system does not make it at all easy for visitors: Descending from street level down three escalators to the platform - there were no ticket machines. Neither were there any staff that you mention to direct us to ticket machines. Nor was there any signage to point to where to buy tickets. On the platform - there are no machines to buy tickets. The Dot app which we used to attempt to buy tickets as we boarded failed - it is not fit for purpose.

No doubt the self service system is effective for city residents who use it every day and do not need to buy single tickets each time they travel. But for visitors it is wholly unsupportive and I believe that as visitors we were targeted by your officials as the inadequacies of the system make us easier to exploit as a significant revenue stream.

You also have not acknowledged that we were apprehended on leaving the train at the station after Nørreport - where we disembarked to look for ticket machines and purchase one. If it was our intention to travel all the way to the airport without tickets, why would we disembark after one stop? Clearly the answer is that we did not want to attempt an entire journey without tickets for which we are glad to pay."

### **Indklagede anfører følgende:**

"The fare evasion tickets were issued, as the complainant and his travel companions were met by the ticket inspector November 5<sup>th</sup>, 2019 after the train left Nørreport station going towards Lufthavnen. Each were issued a fare evasion ticket.

The complainant writes, that as he and his travel companions were late going to the airport and as they could not get the app working, they decided to get on board the metro without valid tickets.

Like all other means of public transportation in the greater Copenhagen area, the Copenhagen Metro employs a self-service system, where the passengers themselves are 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) as well as on the information boards which are placed several places at each metro station. The information boards contain travel information in both English and Danish.

Among others following are stated on the board – **Travel information**



## Kontakt og info Contact and info

Du kan altid finde mere information på DOTs hjemmeside eller ved at benytte de gule kontaktpunkter. Du kan også få hjælp til din rejse ved at bruge infoknappen på billetautomaterne eller ved at kontakte kundeservice:

DOT kundeservice  
T: 7015 7000 (vælg metro)  
W: [dinoffentligetransport.dk](http://dinoffentligetransport.dk)

Additional information can be found on our website, by using the yellow intercoms that you find on platforms and in the trains, or by using the info button on the ticket vending machines. You can also get help with your journey from our customer service:

DOT Customer Service  
T: 7015 7000 (choose Metro)  
W: [publictransport.dk](http://publictransport.dk)

and on the same board to the right:

## Billetter Tickets



### Hav billetten klar Have your ticket ready

Husk at have gyldigt kort eller billet klar inden du står på – du kan ikke købe billetter i metrotoget. Hvis du rejser uden billet, vil du ved kontrol få en afgift på 750 kr.

You must have a valid ticket before boarding – you cannot buy tickets on the metro train. Travelling without a valid ticket will lead to a fine of kr. 750.

Following - among others information - are stated on the board – **Welcome to the Metro**



Rejser med Metroen kræver gyldigt kort eller billet inden påstigning. Der findes Rejekort- og billetautomater på alle stationer. Billetkontrol kan ske både under rejsen, ved udstigning og på stationen efter endt rejse. Har du ikke gyldigt kort eller billet udstedes kontrolafgift efter gældende regler.

Travelling on the Metro requires a valid ticket. Tickets are available from ticket vending machines at the stations. Ticket control may be performed during the journey, when leaving the train and at the station after the journey has ended. Passengers boarding a train without a valid ticket will be liable to pay a fare evasion ticket.

and on the same board:



Du kan benytte de gule kontaktpunkter til generelle henvendelser til Metroens kontrolrum ved at trykke på den grønne knap, INFO. Ved akut fare skal du trykke på den røde knap, ALARM.

Inquiries to the Metro control room may be made from the yellow intercoms by pressing the green button, INFO. In case of emergency, press the red button, ALARM.

At all metro stations the label below are placed at all platform screen doors informing the passengers of the consequent if boarding the train without a valid ticket.



**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



At Nørreport station ticket vending machines can be found at concourse level – se the picture below:



Furthermore it must be mentioned that Nørreport station as one of the greater metro stations is manned in the daytime between 7 am and 8 pm.

Our employees who are wearing yellow vests with the text “Information” on the back are to be found on the platform. In cases where a employee needs to leave the station, he or she will immediately be replaced with a co-worker.

In case a passenger has questions and want to place them in person in stead of using the yellow call point one of our employees can be contacted for answer or help.

The public transportation in greater Copenhagen is based on self-service, and as earlier mentioned in our answers 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 fully understand that the amount is a lot of money to pay but 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 tickets correctly issued as the complainant and his travel companions could not show a valid ticket when asked for and this is why we maintain our claim of DKK 750 x 3.

As mentioned in our first mail passengers must be in possession of a valid ticket *before* entering the metro, otherwise a fare evasion ticket will be issued if met by one of our inspectors.

We have read the complainants latest comments and we understand that it was not the complainants and his companion travelers intention to travel without valid tickets; but never the less they did so.

The requirement for a valid ticket applies to everyone, whether it is a child or adult, a student or senior citizen, a resident or tourist. The actual amount for a fare evasion ticket for an adult is settled in collaboration with the carriers and relevant authorities and is not graduated in relation to the reason for the missing valid ticket. The amounts for an adult is currently DKK 750.”



På ankenævnets vegne



Tine Vuust  
Nævnshoved