

## AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

- Journalnummer:** 2020-0075
- Klageren:** XX på vegne af sønnen YY  
Litauen
- Indklagede:** Metroselskabet I/S v/Metro Service A/S  
**CVR-nummer:** 21263834
- Klagen vedrører:** Kontrolafgift på 750 kr. grundet manglende billet
- Parternes krav:** Klageren ønsker, at ankenævnet annullerer kontrolafgiften, og gør gældende, at sønnen ikke taler eller læser engelsk eller dansk og troede, at han kunne købe billet om bord, da de ikke formåede at købe billet i billetautomaten
- 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 23. juni 2020 truffet følgende

### **AFGØRELSE:**

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

Beløbet skal betales til Metro Service, som sender betalingsoplysninger 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 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:**

Ifølge klageren var hendes søn var på rejse i Danmark og skulle den 19. februar 2020 med metroen fra Nørrebro Runddel st. Han forsøgte forgæves at købe billet i automaten, men kunne ikke finde ud af det, da han ikke læser eller forstår engelsk eller dansk. Der var intet personale på stationen, som han kunne spørge, og han regnede derfor med at kunne købe billet om bord på metroen, hvorfor han steg om bord uden billet.

Ved en efterfølgende kontrol blev han pålagt en kontrolafgift på 750 kr. for manglende billet.

Klageren anmodede Metro Service om at annullere kontrolafgiften og gjorde gældende som gengivet ovenfor.

Metro Service fastholdt kontrolafgiften med den begrundelse, at manglende kendskab til engelsk eller dansk ikke betyder, at man er fritaget fra at have gyldig rejsehjemmel, og de behandler alle passagerer ens.

Under den efterfølgende ankenævns sag har klageren desuden gjort gældende, at sønnen er mentalt syg og har indsendt en erklæring på, at han siden 2014 har haft behov for psykiatrisk hjælp.

### **ANKENÆVNETS BEGRUNDELSE:**

Det er et grundprincip i den kollektive transport i Danmark, at passageren inden eller straks efter (i bus og lokaltog) ombordstigning skal have gyldig billet.

Klagerens søn havde ikke købt billet, inden ombordstigning på metroen, hvilket er et krav i medfør af de fælles landsdækkende rejseregler.

Dette er skiltet tilstrækkeligt tydeligt på dansk og på engelsk på perronens glasdøre, som man skal igennem inden ombordstigning på metroen.

Det er ankenævnets opfattelse, at passageren har pligt til at sætte sig ind i reglerne, og man kan ikke uden at undersøge dette nærmere regne med, at der gælder samme regler om at købe billet som i andre lande.

Den omstændighed, at klageren ikke forstår dansk eller engelsk. kan ikke føre til et andet resultat. Ej heller kan den indsendte erklæring fra 2018 om sønnens helbredsmæssige tilstand føre til et andet resultat.

Det er ikke en betingelse for at pålægge en kontrolafgift, at passageren bevidst har søgt at unddrage sig betaling for rejsen, og da dette desuden er et område med oplagt mulighed for omgåel-

se af reglerne om, at passageren skal forevise gyldig rejsehjemmel, har der ikke foreligget sådanne særlige omstændigheder, at kontrolafgiften skal frafaldes.

## **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.

## **PARTERNES ARGUMENTER OVER FOR ANKENÆVNET:**

### **Klageren anfører følgende:**

"I'm writing on behalf of my son [navn]. My name is [navn]. I'm his mother. My son and his family have been visiting Denmark recently for a first time. The most important thing is that they tried to use the ticket machine, but they were unable to purchase the tickets for their travel, as they do not understand, read and write English. Unfortunately, all information on the machine was in English and Danish. There were nobody to help them to buy the tickets. They thought they can purchase the tickets on the train, like they do in Great Britain. We know that other European countries use another ticketing/checking system/method. So, that's confused them. Please, help us in this unusual situation and cancel the fine for them. I kindly ask to understand us, as it has been the first visit to Denmark for them in their life.

In addition they need to mention, that basically is incorrect, tactless, illogical and not fair insist to pay a fine, when Metro company and it's officers or their system fail or do not have possibilities to ensure help to everyone to buy a ticket from the ticket machine, who do not understand signs/foreign language. In their opinion, the officers should go deep into the each situation first. First of all, they'd need to make a warning, but not give a fine right away. Maybe a man do not understand foreign language (even searching an internet before departure) or a man simply get lost. A man must have a chance to buy a ticket with a help disembarking him, that she/he could continue his/her travel holding already a ticket (even if talk about the EU country such Denmark), but not drastically, unilaterally give a fine. In their opinion, should exist the exceptions in a democratic state, but not looking into the foreigners & their luggages punish them (as easiest way to punish, are they right?). They'd been shocked looking at the officer's behaviour, as they'd been to Denmark for a first time. As there were no officers for help or ticket office at the Norrebros station at all. Unfortunately, call point is useless for foreigners, who can't speak English or Danish. Yes, they know that Great Britain, Spain and other EU countries always have officers or ticket offices at the station, who can help people in emergency situation to buy the travel tickets. More over, they have barriers at the stations, where you can't enter into the station zone without a ticket, but unfortunately Denmark hasn't it.

They'd like to add the last comment in this case. They'd like to add that it's not obligatory for them to search on internet info about the Metro company in Denmark from our home country, as other countries use another system for passenger. More over, they can't understand, speak and read in English or Dan-

ish. They mean they didn't expect in advance, what your system is different. They think that everything must be clear and simple at the point of departure. Even the supermarkets give assistance by the shopping machines in all EU countries. Even we have (the post communist country) shopping officers, who help to buy a food in Lithuania. They treat that your Metro company acts as "a money collector". It's not a service in general for people, as the Metro officers just show unhuman actions. They say the Metro system is really bad and unacceptable, uncomfortable. More over, my son, [navn], is unhealthy. Please, find attached the proof." [erklæring vedhæftet]

### **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) and on Din Offentlige Transport - <https://dinoffentligetransport.dk/kundeservice/raad-og-regler/alle-rejseregler/> 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 19<sup>th</sup> of February 2020 at app. 11:46 between Nørrebros Runddel station and København H. station. The complainant did not have any kind of ticket and therefore a fare evasion ticket was issued in accordance with the travel rules.

The complainant's mother explained that her adult son could not figure out the ticket machine, because there was only guidance in Danish and English and that he do not understand neither. Therefore he believed that he could buy the ticket on the train, because that is possible in Great Britain.

Passengers should do an effort in familiarizing themselves with the transport system, when coming to a foreign country. Assuming that rules from the home country or any other country also applies in Copenhagen, is in our opinion not sufficient. And, to be precise, we know that it is not possible to buy a ticket aboard the London Underground, which must be the transport option comparable to the Copenhagen metro in this regard.

At Metro, we treat everyone equally, the requirement for a valid travel home applies to everyone. There is no difference, everyone travels under the same conditions. There are thus no special rules for students,

pensioners, children, tourists, people with disabilities or any other interest groups - except for certain disability organizations, which have entered into special agreements in advance for some of their members. If you do not understand English or Danish, this in and of itself does not allow for travel without and valid ticket.

Although we may well understand that it is regrettable to have to pay a fare evasion ticket, we do not believe that these are such special circumstances that a cancellation of the fare evasion ticket may be considered.

We therefore maintain our demand for payment of DKK 750.”

På ankenævnets vegne



Tine Vuust  
Nævnensformand