

## AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

**Journalnummer:** 2021-0069

**Klageren:** XX  
2300 Kbh. S

**Indklagede:** Metroselskabet I/S v/Metro Service  
**CVR-nummer:** 21 26 38 34

**Klagen vedrører:** Kontrolafgift på 750 kr. grundet manglende check ind på Rejsekort, der skyldtes for lav saldo

**Parternes krav:** Klageren ønsker, at ankenævnet annullerer kontrolafgiften, og gør gældende, at de holdt Rejsekortet til det blå punkt to gange og begge gange gav standeren en positiv lyd for check ind

Indklagede fastholder kontrolafgiften

**Ankenævnets sammensætning:** Nævnensformand, landsdommer Tine Vuust  
Torben Steenberg (2 stemmer)  
Helle Berg Johansen  
Susanne Beyer Svendsen

Ankenævnet for Bus, Tog og Metro har på sit møde den 15. september 2021 truffet følgende

### **AFGØRELSE:**

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

Beløbet skal betales til Metro Service, der 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.

-oOo-

## SAGENS OMSTÆNDIGHEDER:

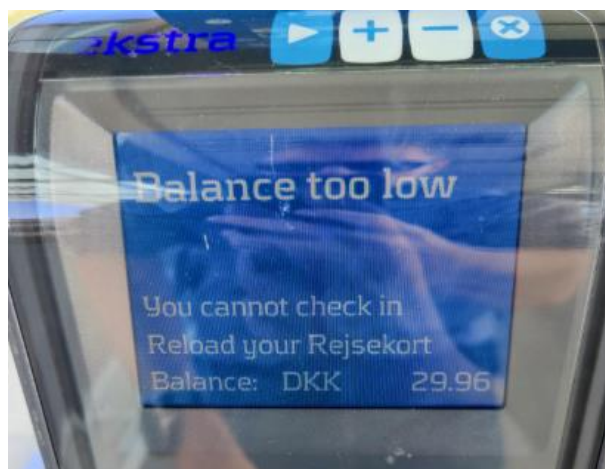
Klageren, der ikke er dansktalende, og en medrejsende skulle den 13. juni 2021 rejse med Metro- en fra Øresund st. til Lufthavnen st.

Ifølge klageren tastede hun + på ekstra check ind-standeren, tastede en ekstra passager og holdt sit Rejsekort til det blå punkt, der gav en positiv lyd.

Klagerens Rejsekort anonymt havde ifølge Rejsekorthistorikken dog kun en saldo på 105,88 kr., og der kunne ikke ske indcheckning af to passagerer, fordi dette kræver en saldo på 70 kr. pr. rej- sende, når der er tale om et anonymt Rejsekort.

Reg. udstyr dato/kl. --	Modtaget, system dato/kl.	Regnskabsperiode	Handling	Transakt.type	Kortsekv.nr.	Rejsekv.nr.	Lokation	Udstyr / -nr.	Produkttype	Saldo	E-pung ændring	Transakt.beløb	Forudbetaling
14-04-2021 11:12:59	14-04-2021 11:25:43	01-04-2021	Check ind	Check ind	17	6	Lergravsparken St.	VAL_21605 - 13C8B3	EasyTrip	50,36	-70,00	70,00	70,00
14-04-2021 11:24:46	14-04-2021 11:41:17	01-04-2021	Check ud	Check ud	18	6	Rådhuspladsen St.	VAL_67198 - 13995E	EasyTrip	105,88	55,52	-55,52	70,00
13-06-2021 16:23:15	13-06-2021 16:43:54	01-06-2021	Check ind	Check ind	19		Øresund St.	VAL_23662 - 13F733	EasyTrip	105,88	0,00	0,00	0,00
13-06-2021 16:23:28	13-06-2021 16:43:54	01-06-2021	Check ind	Check ind	20	7	Øresund St.	VAL_23662 - 13F733	EasyTrip	35,88	-70,00	70,00	70,00
13-06-2021 16:27:59	17-06-2021 15:08:48	01-06-2021	Kontrolmærke	Kontrol	20	7	Amager Strand St.	MARK_49501 - 098229		0,00	0,00	0,00	0,00
13-06-2021 16:28:35	17-06-2021 15:08:48	01-06-2021	Kontrolmærke	Kontrol	20	7	Amager Strand St.	MARK_49501 - 098229		0,00	0,00	0,00	0,00
13-06-2021 16:35:21	13-06-2021 17:03:37	01-06-2021	Check ud	Check ud	21	7	Københavns Lufthavn	VAL_23703 - 1389CD	EasyTrip	91,40	55,52	-55,52	70,00
13-06-2021 16:36:55	13-06-2021 16:45:07	01-06-2021	Tank-op	Tank-op	22		Københavns Lufthavn	MET_Cph_RVM_101 - 047028		191,40	100,00	100,00	
13-06-2021 16:55:02	13-06-2021 17:00:12	01-06-2021	Check ind	Check ind	23		Københavns Lufthavn	MET_Cph_RVM_102 - 047029	EasyTrip	191,40	0,00	0,00	0,00
13-06-2021 16:55:02	13-06-2021 17:00:12	01-06-2021	Check ind	Check ind	24	8	Københavns Lufthavn	MET_Cph_RVM_102 - 047029	EasyTrip	51,40	-140,00	140,00	140,00
13-06-2021 17:16:13	13-06-2021 17:31:00	01-06-2021	Check ud	Check ud	25	8	Forum St.	VAL_20998 - 13993A	EasyTrip	154,44	103,04	-103,04	140,00
13-06-2021 17:54:40	13-06-2021 18:00:07	01-06-2021	Check ind	Check ind	26		Forum St.	MET_For_RVM_101 - 047006	EasyTrip	154,44	0,00	0,00	0,00
13-06-2021 17:54:40	13-06-2021 18:00:07	01-06-2021	Check ind	Check ind	27	9	Forum St.	MET_For_RVM_101 - 047006	EasyTrip	14,44	-140,00	140,00	140,00
13-06-2021 18:04:53	13-06-2021 18:17:02	01-06-2021	Check ud	Check ud	28	9	Lergravsparken St.	VAL_21602 - 1391CE	EasyTrip	125,48	111,04	-111,04	140,00

Hvis klageren havde fulgt retningslinjerne for check ind af flere rejsende, der blandt andet kan ses her: [https://www.youtube.com/watch?v=rAtGW2\\_uV44](https://www.youtube.com/watch?v=rAtGW2_uV44), ville standen have vist følgende besked:



Eksempel

Klageren og den medrejsende steg om bord på Metroen, men ved kontrol af deres rejsehjemmel var der kun checket én passager ind, og klageren blev pålagt en kontrolafgift på 750 kr.

Efter check ud i Lufthavnen tankede klageren 100 kr. op på Rejsekortet, og hun og den medrejsende foretog herefter to rejser senere samme dag.

I den efterfølgende klage over kontrolafgiften til Metro Service gjorde klagerens ægtefælle gældende, at klageren ikke vidste, at der ikke var checket en ekstra rejsende ind på Rejsekortet, når man tastede på + tasten og holdt kortet til det blå punkt, og fik signalet om, at alt var ok.

Metro Service fastholdt kontrolafgiften, da saldoen var for lav til check ind af to voksne, og at man får en advarselslyd ved forsøg på check ind i et sådant tilfælde.

Under den efterfølgende ankenævns sag har Metro Service fremlagt udskrift fra den pågældende stander, der har været i fuld funktion den omhandlede dato.

### **ANKENÆVNETS BEGRUNDELSE:**

Således som sagen foreligger oplyst med diverse tekniske logs, kan ankenævnet ikke lægge til grund, at klageren foretog den korrekte indtastning til check ind af to voksne på + standeren. Ankenævnet bemærker, at det ikke er tilstrækkeligt blot at taste på + knappen og holde kortet til det blå punkt. Brugeren skal derudover vælge den kundetype og antal, som ønskes med på rejsen ud over kortholderen. Hvis klageren havde foretaget de korrekte skridt, ville hun have fået advarselslyden og den tekst om for lav saldo, der er gengivet ovenfor.

Det er endvidere kommunikeret på engelsk ved køb af Rejsekort Anonymt, at der kræves en forudbetaling = mindstesaldo på 70 kr. pr. rejsende.

Herefter og da det ikke er en betingelse for at pålægge en kontrolafgift, at passageren bevidst har forsøgt at unddrage sig at betale for rejsen, blev kontrolafgiften pålagt med rette, og ankenævnet finder, at der ikke har foreligget omstændigheder der gør, at kontrolafgift skal frafalde.

### **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. Ifølge § 2 i lov nr. 206 af 5. marts 2019 om ændring af lov om trafikskaber og jernbaneloven fremgår det, at jernbanelovens § 14, stk. 1, affattes således:

»Jernbanevirksomheder, der via kontrakt udfører offentlig servicetrafik, kan opkræve kontrolafgifter, ekspeditionsgebyrer og rejsekortfordringer.«

§ 14, stk. 2 og 4, ophæves, og stk. 3 bliver herefter stk. 2. Stk. 3 har følgende ordlyd:

”Passagerer, der ikke er i besiddelse af gyldig rejsehjemmel, har pligt til på forlangende at forevise legitimation for jernbanevirksomhedens personale med henblik på at fastslå passagerens identitet.”

I henhold til § 4 i bekendtgørelse nr. 1132 om kontrolafgifter og uddannelse af personale m.v. af 28. september 2010 kan jernbanevirksomheden opkræve kontrolafgifter og ekspeditionsgebyrer til passagerer, der ikke foreviser gyldig rejsehjemmel (billetter og kort), og jernbanevirksomheden fastsætter bestemmelser om kontrolafgift og ekspeditionsgebyrer i forretningsbetingelserne.

I de fælles landsdækkende rejseregler (forretningsbetingelser), som trafikvirksomhederne har vedtaget, præciseres 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:**

"I received on the 13.6. an evasion ticket for a missing check in extra for a metro ride from metro station Øresund to Cph airport. BUT when I checked myself and my wife in - both together - on my card, the free standing little bumper made a positive kling sound and green light as well. On the other hand we saw the steward standing with us at the station waiting for the metro as well and he saw us using the left green check-in bumper with the option + extra option. He controlled us in the metro and there was than just one ticket on my Rejsekord. So I explained everything to the steward and told him "You saw us checking in" and he said I SHOULD write the customer service. The steward told us that he would write a comment to the customer service, that they could overrule that one. Which of course I did, but they rejected me and want me to pay the full charge. They just say that my Rejsekord wasn't over 140 dkk for 2 ppl +extra and thats why I have to pay the heavy fee.

Its not fair, I would had enough money on my card just because they make these absurd rules about it and the green light came as well! So my action wasnt to not to pay!"

### **Indklagede anfører følgende:**

"Under inspection an anonymous rejsekort which were only checked in for 1 person was presented, but as they were 2 persons a fare evasion ticket was issued to the complainant June 13<sup>th</sup>, 2021 at 16.29, after the metro has left Øresund station going to Lufthavnen station (The Airport).

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 – on demand - be able to present a valid ticket or card to the ticket inspectors, otherwise a fare evasion ticket will be issued. This is stated in the Joint National Travel Regulations, which can be found [here](#).

I have looked at the history for the used rejsekort and had found, that the reason the complainant and her travel companion were not both checked might have been the fact that the balance (amount on the card) were too low for checking in 2 persons.

A check in for 2 person on an anonymous card demands a balance of minimum 140 DKK (2 x 70 DKK).

The balance (saldo) was only 105,88 (see the red box below), the transaction marked in green is the check in attempt and the transaction marked with yellow is the inspectors control mark.

[Udeladt, gengivet ovenfor]

From the above it is clearly shown that the balance was 105,88 DKK at the time the complainant activated the Check In Extra stand.

When trying to check in 2 person in with an anonymous rejsekort with a balance under 140 DKK, the sound “something went wrong” will be heard and the text in the display will show “**Balance too low**” – se example below:

[Udeladt, gengivet ovenfor]

As the complainant did probably not notice neither the “something went wrong sound” nor the error message in the display and put her rejsekort up to the blue point again only one person was checked in. Therefore the complainant cannot have seen the message in the display telling that 2 adult were checked in, which appears when a correct check in transaction for to persons is done.

Due to the transaction report (enclosed) for the check in extra stand at Øresund St., the one the complainant used, it is clearly stated, that there have been other successful transactions where 2 persons are check in on a personal, flex or anonymous card.  
(This transaction has been highlighted in green).

Based on the complainant’s comment – that the steward should have told her that the fare evasion ticket would be waved of if they contacted customer service – we have had the case sent to the steward for comments.

The steward who have been a member of our staff for many years has informed us, that he according to the instructions for stewards told the customer, that in case she did not agree to that the fare evasion ticket was correctly issue the customer was welcome to contact customer service with a complain and that he would make a note on the fare evasion ticket which he also did.

The stewards are not allowed to relate to cases where a customer cannot present a valid ticket or card, if the customer do not agree to the fare evasion ticket, the steward must refer to customer service for case processing. This is also stated on the fare evasion ticket handed to a customer without a valid ticket or card.

The steward made the information below as information for customer service in case the complainant filled a complaint.

pax forsøgte at checke ind 2 personer men det lykkedes ikke for hende.0090211541

Translated into English: “***The passenger tried to check in 2 persons but this failed for her***”

Based on the above we find the fare evasion ticket correctly issued and maintained as the complainant and her travel fellow could only show valid ticket for 1 person (1 person checked in on rejsekort) at the time of inspection, and due to this we maintain our claim of 750 DKK.

In conclusion - when going through this case - I observed that the case handler did not explain or comment on the complainants 2<sup>nd</sup> inquiry where the complainant refers to a mail sent to us June 15<sup>th</sup>, and for this I would like to apologize. The complainant wrote:

Dear Customer Service,  
Regarding this case I didn't hear back from you after my mail from 15.6.  
And I don't want to have more "problems" with that matter.  
Please let me know if you received my answer below and if my case is  
still being processed?  
Thank you for your help and time

When we answer an inquiry from a customer the e-mail which is used to do so, cannot be used for further dialog regarding the case.

At the bottom of the reply email appears the following:

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Kundeservice/Customer Service

**Metro Service**

T: + 45 70151615

Følg os på Twitter [@MetroenKBH](#)

Denne e-mail kan ikke besvares. Kontakt os [her](#) - You cannot reply to this e-mail. Please contact us [here](#).  
Disclaimer: This message (including any attachments) contains confidential information for a specific individual and purpose, and is protected by law. If you are not the intended recipient, you should delete this message and are hereby notified that any disclosure, copying, or distribution of this message, or taking of any action based on it, is strictly prohibited.

 Please consider the environment before printing this e-mail. Thank you.

If a customer ignores this and write back to sender anyway - using the e-mail [kundeservice@metroservice.dk](mailto:kundeservice@metroservice.dk) - following answer will be sent to the complainant (text in both in Danish and English):

Tak for din e-mail.

Thank you for your e-mail.

Vi ser ikke indkommende e-mails til [kundeservice@metroservice.dk](mailto:kundeservice@metroservice.dk).

We do not view incoming e-mails for [kundeservice@metroservice.dk](mailto:kundeservice@metroservice.dk).

I stedet henvises du til kontaktformularen på DOTs hjemmeside:  
[Kontakt Metro Kundeservice](#)

You are kindly requested to use our contact form here [Contact Metro Customer Service](#)

Kontaktformularen sikrer, at vi får alle de nødvendige informationer.

The contact form ensures that we get all the necessary information.

Vi takker på forhånd for din forståelse.

We thank you in advance for your understanding.

Med venlig hilsen  
Metro Kundeservice

Kind regards,  
Metro Customer Service

”

### Klageren har yderligere anført:

“1. Why would the machine give us the green light and the correct sound when we tapped twice for two people when in fact its not allowed? Isn't this a faulty setup of the machine and the system?

2. How are we supposed to know we need to be informed about special minimum balance requirements when during the purchasing of the card, there is nowhere on the purchase that states 'you must go to the website to see rules and guidelines for travel'.

3. The ticket officer watched us tap in and understood we attempted to tap and pay for two when we spoke to him- unlike people who sneak on on purpose for free.

We believe that if we are to be charged for breaking the rules (when trying to comply with the rules!), the rules need to be explicitly provided. The rule that one should 'just know' to go to the website and to know that you need to have a minimum balance to ride for two even when there's enough money on the card for two passengers is faulty.

We would cooperate to pay the amount in price of a ticket to the airport from where we got on, but not an evasion ticket to which we completely disagree with the charge."

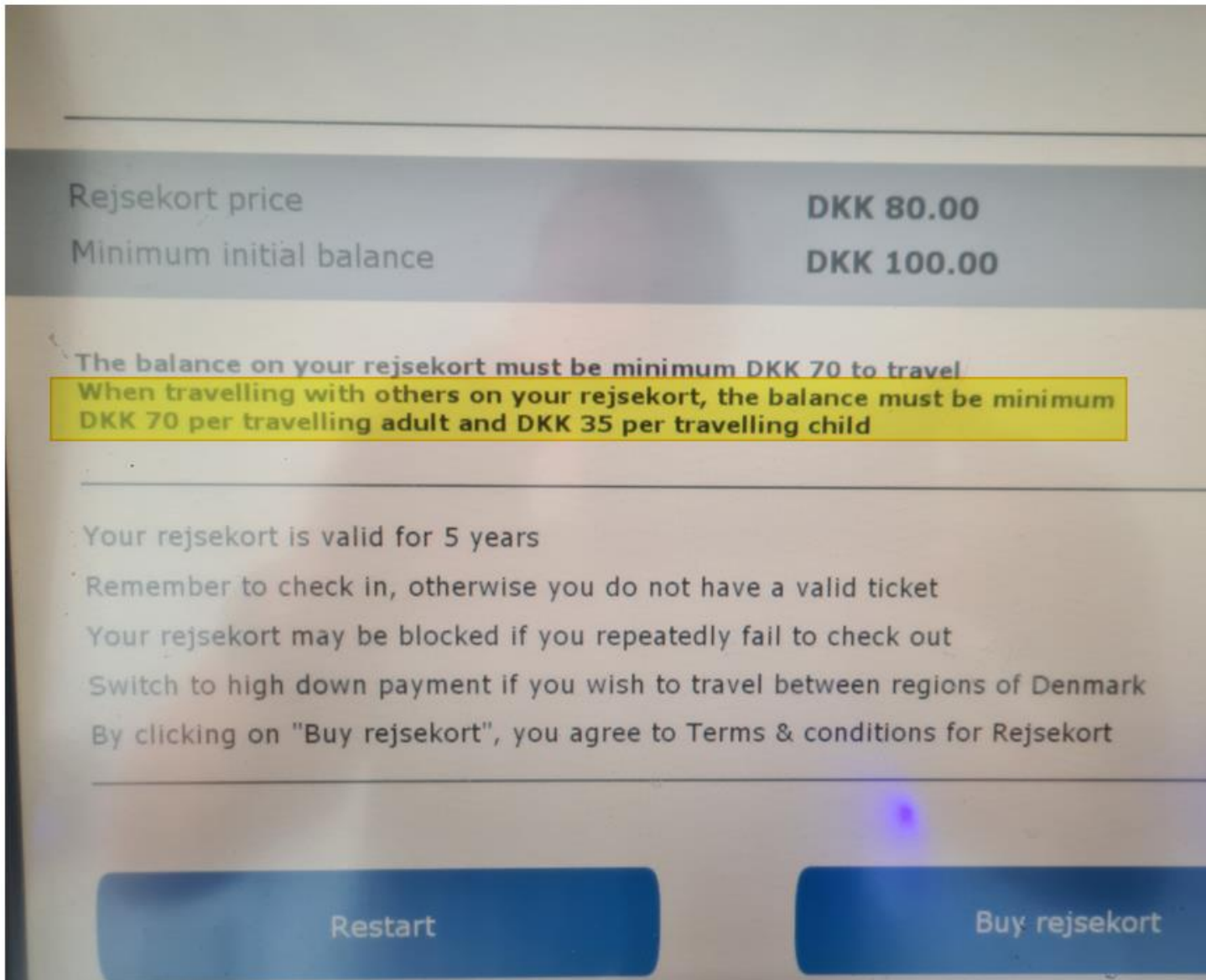
**Til dette har Metro Service svaret:**

"First the complainant refers to a green light, but there is no other light than the blue point, so no comment on that.

A check in point can be used both for normally check in and for multiple check in. The customer her or himself must be observant as to the text at the display. The check in extra point is not a faulty setup of the machine nor the system.

We have noticed that the complainant in relation to an earlier trip (April 7<sup>th</sup>, 2021), has made a correct check in for 2 persons – based on that we may assume that the complainant knows how to do it and knows what to expect to see in the display.

When buying a Rejsekort anonymous the text below is shown:



We cannot relate to whether the steward actually saw what the complainant was doing at check in extra stand. He may have looked in the complainant's direction without having seen specifically what was typed.

As mentioned in our earlier answer, the steward is instructed to give a fare evasion ticket to all passengers who cannot present a valid ticket upon inspection.

It is of course a regrettable situation the complainant has got into not been aware of the text when buying the card, not been aware of the display when trying to make the check in extra for 2 persons and thought she heard the accept sound. However, it is not possible for us to take the intention of the passenger and good faith into consideration. We are obliged to treat all passengers equally and in compliance with the travel rules, and it is always the passenger's responsibility to purchase and be in possession of the required ticket or card.

There are no differentiated prices depending on the offence – a fare evasion ticket for an adult is 750 DKK, which is stated both in the Joint National Travel Regulation and on the information boards which can be found at all metro stations. Based on the above we maintain our claim of 750 DKK.”



På ankenævnets vegne

A handwritten signature in black ink, appearing to read 'Tine Vuust', written in a cursive style.

Tine Vuust  
Nævnshoved