

AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

Journalnummer: 2017-0287

Klageren: xx
Italien

Indklagede: Metroselskabet I/S v/Metro Service A/S
CVRnummer: 21 26 38 34

Klagen vedrører: Kontrolafgift på 750 kr. grundet for få zoner på billetten

Parternes krav: Klageren ønsker kontrolafgiften annulleret
Indklagede fastholder denne

Ankenævnets sammensætning: Nævnensformand, landsdommer Tine Vuust
Niels Martin Madsen
Torben Steenberg
Bjarne Lindberg Bak
Rikke Frøkjær

Ankenævnet for Bus, Tog og Metro har på sit møde den 19. februar 2018 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.

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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:

Klageren, som er italiener og var på ferie i København, rejste den 8. november 2017 med metroen fra Lufthavnen st. i zone 04 til Kgs. Nytorv st. i zone 01. En rejse, som kræver billet til 3 zoner. Klageren havde dog købt billet til kun 2 zoner, da han havde misforstået zoneoversigten.



Skiltning i lufthavnen

På strækningen mellem Amagerbro st. og Kongens Nytorv st. var der kontrol af klagerens rejsehjemmel, og da hans billet var købt i zone 04 og han befandt sig i zone 01, blev han kl: 19:28 pålagt en kontrolafgift på 750 kr.

Klageren anmodede den 9. november 2017 Metro Service om at annullere kontrolafgiften og gjorde her ovenstående gældende.

Metro Service fastholdt den 10. november 2017 kontrolafgiften med henvisning til selvbetjeningsprincippet, samt at der er gule opkaldspunkter på billetautomaterne, som man kan benytte til at få hjælp.

ANKENÆVNETS BEGRUNDELSE:

Klageren kunne ved kontrollen i zone 01 alene forevise en billet som var gyldig i 2 zoner fra zone 04. Billetten var altså gyldig i zone 04 og 03, men ikke i zone 01.

Kontrolafgiften for manglende gyldig billet blev derfor pålagt med rette.

Den omstændighed at klageren har misforstået zoneoversigten ændrer ikke ved dette, da det ifølge selvbetjeningsprincippet er klagerens eget ansvar at have gyldig rejsehjemmel. Ankenævnet bemærker, at der er tydelig skiltning på engelsk til passagerer i lufthavnen om, at det kræver en billet til 3 zoner at rejse til centrum.

Det bemærkes videre, at det ikke er en betingelse for at pålægge en kontrolafgift, at passageren bevidst har søgt at unddrage sig fuld betaling for billetens pris. Ankenævnet finder derfor, at der ikke har 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, 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.

I de fælles landsdækkende rejseregler, som trafikvirksomhederne har vedtaget pr. 1. november 2017, 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. 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.

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 was a tourist travelling into the city centre from one of the airport hotels. I accept that I made a genuine mistake when calculating the fare. I had a valid ticket for 2 zones not 3. The difference in price was 12 kroner. I was shocked to be treated as a criminal and fined 750 kroner. I am a professional pilot and would never have intentionally invaded the fare. Please could you reassess the situation"

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 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 8th of November 2017 at 19:28 between Amagerbro station (zone 01) and Kongens Nytorv station (zone 01). The complainant presented a ticket bought in zone 04 at Airport station, valid for two zones.. As the complainant was not able to present a valid ticket for zone 01, a fare evasion ticket was issued, according to the travel regulations.

Because the airport station is a very busy station with many foreign passengers, we have made extra effort with the English information at the station as well as at the ticket machines. In addition, the airport metro station is also staffed with uniformed personnel, who can help with any questions concerning travel by metro.

On the ticket machine itself, we have placed signs that you need to buy a 3-zone ticket if you want to go to City Centre. You do not need to know beforehand whether the station you want to travel to is located in the City Centre itself, as the ticket machine's overview clearly indicates which stations are located where and how many zones you will need to get there.

At the airport that particular information is located at 3 ticket machines. The first machine is located just as you get up to the metro station and on the back of the first ticket vending machine is a big red sign with guidance in zones and tickets. The same information is shown by smaller signs on the front of the ticket machines. See pictures below:

The first ticket machine:



And the front of the machines:



In addition to the signs on the ticket machines, you can also choose the station's name in the purchase flow, thus obtaining the correct number of zones.

We have also set up information boards in Danish and English. The boards also show you how to buy the correct ticket, as well as the signs informing you that you get a check charge if you do not have the correct ticket. See photos below and the attached pdf-file 'Infovitrine_Lufthavnen':

Sådan køber du en billet

How to buy a ticket

1. Den røde zone på kortet viser, hvor du befinder dig.
2. Find den zone, du vil rejse til, og aflæs farven for din tur. Hvis du rejser igennem en zone, der er dyrere end din destinationszone, skal du betale for den dyreste zonefarve.
3. Køb billet, der svarer til det antal zoner, som farvekoden viser. Du skal købe billet til mindst 2 zoner pr. person.

Du kan også indtaste en station og købe billet direkte til din destination.

1. The red zone on the map indicates your current location.
2. Find the zone in which your destination is located to determine the zone colour code for your trip. If you travel through a zone that is more expensive than your destination zone, you must pay for the most expensive zone colour.
3. Buy a ticket corresponding to the number of zones indicated by the colour code. You must buy a ticket for at least 2 zones per person.

You can also enter a station and buy a ticket directly to your destination.

Korte rejser: 2-8 zoner

Short trips: 2-8 zones

På korte rejser på enkeltbillet eller rejsekort betaler du for antallet af zoner (farvezone), du kører i, inklusive den zone hvor rejsen starter. Når du foretager korte rejser på pendlerkort, betaler du for det antal zoner, du kører igennem. Du skal altid betale for mindst to zoner.

For short trips by single ticket or Rejsekort, you pay for the number of zone rings (colour zones) through which you travel, including the zone in which the trip begins. When you take short trips using a season ticket, you pay for the number of zones through which you travel. You must pay for at least two zones.

Enkeltbilletter til lange rejser (9 eller flere zoner)

Single tickets for long trips (9 or more zones)

Når du rejser på en enkeltbillet til en lang rejse (9 eller flere zoner), skal du købe billetten til en rejse fra A til B. Prisen for rejsen kan afhænge af hvilken vej du rejser. Ved køb vil du eventuelt blive spurgt om rute (via-punkter). Eventuelle via-punkter vil fremgå af billetten.

When travelling with a single ticket for a long trip (9 or more zones), you must buy a ticket for a trip from your departure location to your destination. The price of the trip may vary according to which way you are travelling. When buying the ticket, you may be asked about the route (via points). Any via points will be indicated on the ticket.

Farvekodning zoner

Color coding number of fare zones



Til lange rejser skal du købe billet til din destination

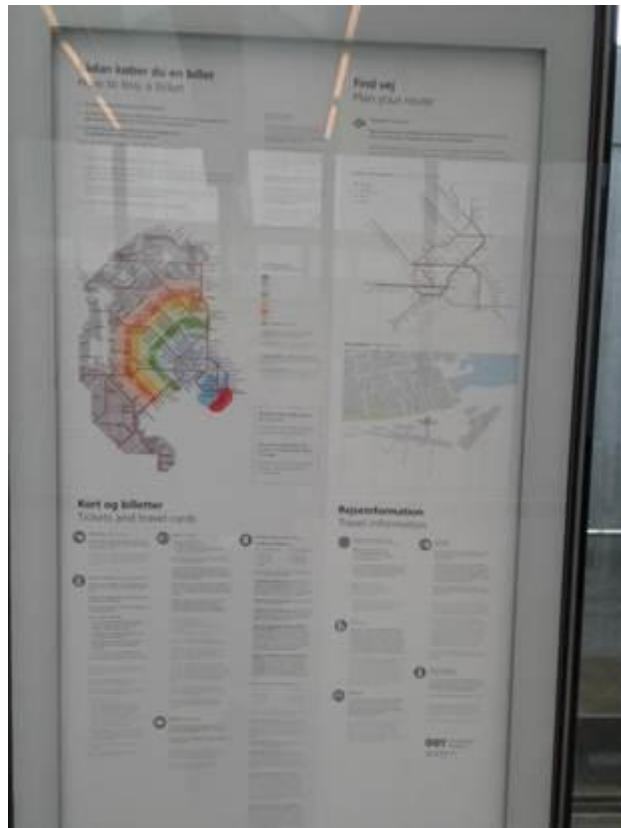
(zonebilletter gælder til maksimalt 8 zoner).

For long trips you have to buy a ticket to your destination (zone tickets are not valid for more than 8 zones).

De hvide zonerumre er relevante for brugere af pendlerkort. Kortet skal være gyldigt til de zonerumre, som du ønsker at rejse igennem.

The white zone numbers are relevant for users of season tickets (pendlerkort). The season ticket must be valid for the zone numbers through which you will be travelling.







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.

We believe that when visiting a new destination, you should pay extra attention, as well as prepare from home by visiting, for example, our own website or a tourist information website. If you have not had the opportunity to prepare from home or if you do not understand the information signs, you can contact the uniformed metro staff who are at the Airport station 24 hours a day.

We are sorry if the complainant feels badly treated by the steward. Our stewards have many tasks; One of them is controlling tickets. However, a steward may not handle any sort of case-by-case procedure, but may only decide whether a valid ticket can be displayed in the ticket situation and, if not, issue a fare evasion ticket.

At Metro, we treat everyone equally, the requirement for valid ticket goes for all. No distinction is made, all travels on the same terms. There is thus no special rules for pensioners, children, tourists, disabled or any other interest groups - apart from some disability organizations that previously has entered into special agreements for each of their members.

Considering the above, we maintain our claim on the fare evasion ticket number [...] of DKK 750,-"

Klageren svarer hertil:

"I totally agree that all passengers should have the correct ticket and are responsible for presenting the ticket when asked to. However perhaps the comments made were drawn up by someone who has never found themselves using public transport in a country where they don't speak the language. The Danish Language is especially difficult and please note not everybody speaks English.

In fact I had a ticket and when asked to present it did so, obviously having no idea that I had made a genuine mistake.

The comments imply preparation at home, using one of the ticket machines where there is an English translation, asking for help, but neglects to mention that with all the good will in the world people will make mistakes.

1) At most airport stations in order to board the train there is someone physically checking tourists have the correct ticket, or at the station exit people with incorrect tickets can't exit the station.

For example in London it's impossible to make a mistake because if you don't have the correct ticket you can't exit the station. A fool proof system for everybody

2) The comments imply that no distinction is made between intentional evasion or unintentional evasion, surely that is admitting to taking advantage of tourists' mistakes. Any steward should be able to use their personal discretion

when issuing a fine, and only issue them for intentional evasion.

3) I am a professional pilot and used to travelling the world over. The fare evasion was certainly not about not paying. Copenhagen should give the image of a welcoming city to its visitors.

4) The controller checked my ticket after a couple of stops from the airport, surely if I had truly wanted to evade the fare all I had to do was to pretend I was going to a different destination.

5) A genuine mistake was made, the size of the fine is disproportional

I hope my comments will be taken into consideration and will help to change a system which should be foolproof and at the moment isn't. Copenhagen is a wonderful city and tourism should be encouraged not discouraged."

Indklagede har hertil anført:

"We do not find that the complainant has added any new information to this case but we would like to reiterate that we do not distinguish between an intentional or unintentional mistake, but relate exclusively to the facts. We do not distinguish between an intentional or unintentional mistake, but relate exclusively to the facts. Facts in this case is that the complainant did not have a valid ticket when inspected.

We would also like to repeat that the stewards have no mandate to undertake any form of on-the-spot processing, but may only relate to whether a valid ticket can be presented or not, and if not issue a fare evasion ticket.

How the conditions for access to the stations/platforms are elsewhere in the world, such as in London, as the complainant describes, we believe is not relevant to the case.

A fare evasion ticket is currently DKK 750 for adults, and is not graduated depending on the reason of the fare evasion ticket. The actual amount is decided by the cooperating transport companies and approved by the relevant authorities.

In view of the above, as well as to previously submitted responses, we still maintain our claim for payment of fare evasion ticket no. [...] of DKK 750,-"

På ankenævnets vegne



Tine Vuust
Nævnetsformand