

AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

- Journalnummer:** 23-0262
- Klageren:** XX
Malmø, Sverige
- Indklagede:** Metroselskabet I/S v/Metro Service A/S
CVR-nummer: 21 26 38 34
- Klagen vedrører:** Kontrolafgift på 750 kr. grundet manglende Metro tillæg på pendlerkort fra Skånetrafiken-app samt 2 x 100 kr. i rykkergebyrer
- Parternes krav:** Klageren ønsker, at ankenævnet annullerer kontrolafgiften og rykkergebyrerne, og gør gældende, at han var blevet anbefalet at tage Metroen af en kollega, der som klageren bor i Sverige, arbejder i København, har pendlerkort fra Skånetrafiken og har rejst med Metroen uden at blive pålagt en kontrolafgift
- Indklagede fastholder kontrolafgiften og rykkergebyrerne
- Ankenævnets sammensætning:** Nævnensformand, dommer Lone Bach Nielsen
Rolf Høymann Olsen
Torben Steenberg
Helle Berg Johansen
Dorte Lundqvist Bang

Ankenævnet for Bus, Tog og Metro har på sit møde den 17. april 2024 truffet følgende

AFGØRELSE:

Metroselskabet I/S v/Metro Service A/S skal frafalde kravet om klagerens betaling af kontrolafgiften på 750 kr. og 2 x 100 kr. i rykkergebyrer. Metro Service skal betale 10.000 kr. i sagsomkostninger til ankenævnet, jf. vedtægterne § 25, stk. 1 og 2.

Da klageren har fået medhold i klagen, tilbagebetales klagegebyret, jf. ankenævnets vedtægter § 24, stk. 2.

- oOo -

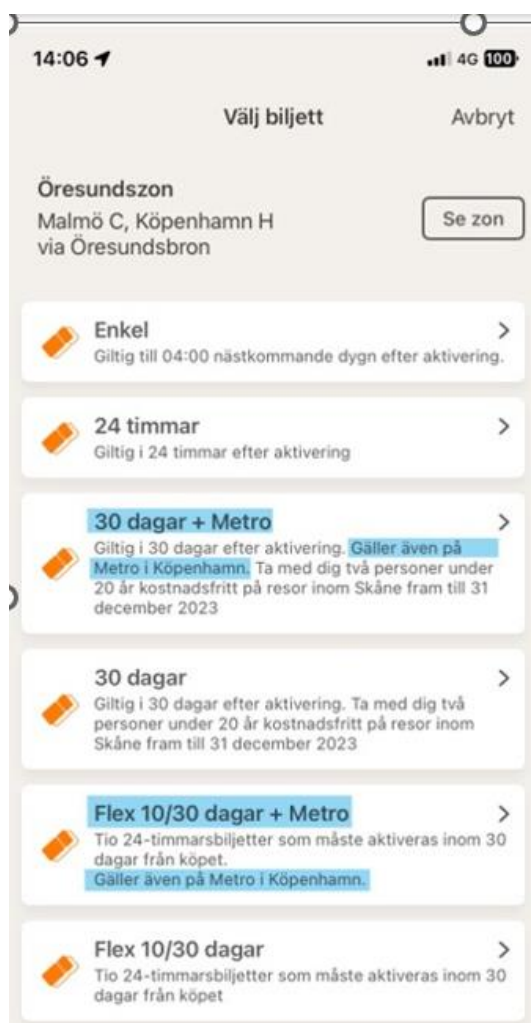
Hver af parterne kan anlægge sag ved domstolene om de forhold, som klagen har vedrørt.

Klageren henvises til at søge yderligere oplysning om eventuel bistand i forbindelse med sagsanlæg fx på www.domstol.dk, www.advokatnoeglen.dk og /eller eget forsikrings selskab om eventuel forsikringsretshjælp.

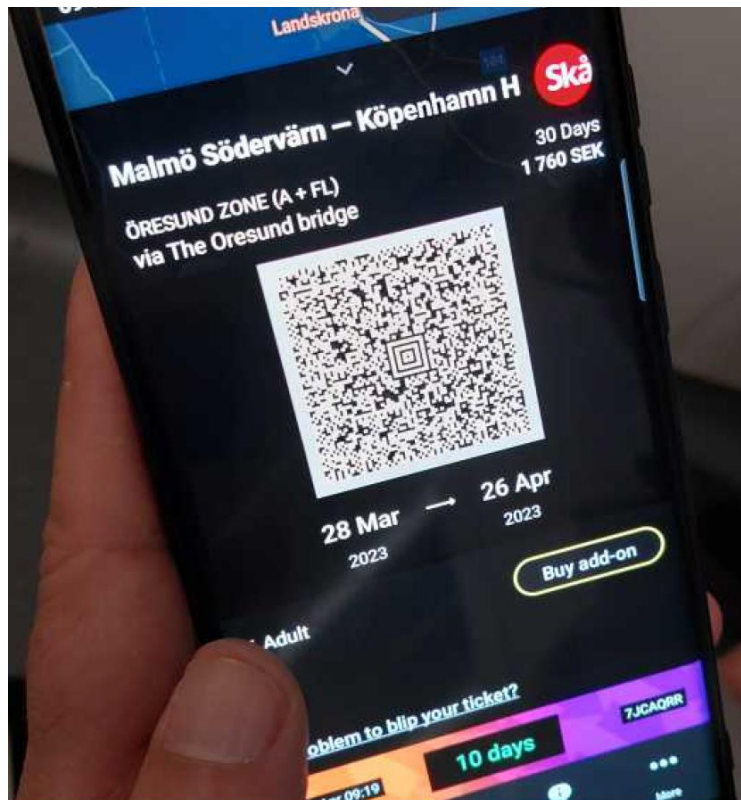
SAGENS OMSTÆNDIGHEDER:

Klageren bor i Malmø og arbejder i København, Nordhavn. Til brug for rejsen med regional- og S-tog frem og tilbage til Nordhavn har han ifølge det oplyste siden oktober 2022 anvendt et pendlerkort i Skånetrafikens app gældende fra "Malmø Södervärn til København H via Øresundsbroen".

Øresundzonerne A (er Malmø) + FL (er zonerne 01, 03, 04 i København) Undervejs i købsprocessen i Skånetrafikens app skal kunden vælge, om pendlerkortet skal være med eller uden Metrotillæg. De blå bjælker er indsat af Metro Service i forbindelse med deres svar i nærværende ankenævns sag:



Klageren valgte at købe et pendlerkort uden Metrotillæg, der så således ud på hans telefon:



Skånetrafiken har oplyst, at når kunden skal forlænge en pendlerperiode, sker det på følgende måde:

[Dansk oversættelse af den svenske tekst nedenfor]

”Når en kunde vælger at forny et tidligere periodekort, vil de blive ført direkte til siden nedenfor, og kortet er præcist som dét, de tidligere har valgt. De skal selv aktivt trykke på pilen, som jeg har sat en cirkel om med rødt, for at vælge en anden billettype. De får så mulighederne som nedenfor, hvor de kan vælge med Metrotillægget.”


”När en kund väljer att förnya en tidigare periodbiljett kommer de direkt till sidan nedan och biljetten är exakt så som de tidigare har valt. De behöver aktivt själva trycka på pilen, som jag ringat in i rött, för att välja en annan typ av biljett. De får då upp alternativen enligt nedan, där de kan välja med Metrotillägg.”

15:40    

[← Välj biljett](#) **Välj biljett** [Avbryt](#)

Öresundszon
Malmö Hyllie, CPH
Airport Kastrup
via Öresundsbron [Se zon](#)

 **30 dagar**
Giltig i 30 dagar efter aktivering 

Vuxen	 0 	0 kr
Barn 7–15 år	 0 	0 kr
Student	 0 	0 kr

Tillägg 
Inga resenärer

Antal biljetter 
1 biljett

Pris för 1 biljett
Biljettpris 0 kr
Att betala 0 kr

Efter betalningen väljer du om biljetten ska aktiveras nu eller senare. Biljetten är giltig i 30 dygn efter aktiveringen.

Den 17. april 2023 skulle klageren rejse til Nordhavn, og da han af en kollega havde fået et tip om, at det var hurtigere at tage Metroen end S-tog, gjorde han det. Undervejs var der kontrol af hans rejsehjemmel, og da han ikke havde tilkøbt Metrotillæg, var hans pendlerkort ikke gyldigt til rejsen med Metroen. Klageren blev derfor pålagt en kontrolafgift på 750 kr.:

```

:StationFrom>København H</StationFrom>
:StationTo>Nordhavnen</StationTo>
:Adult>true</Adult>
:Child>>false</Child>
:NumberOfBikes>0</NumberOfBikes>
:NumberOfDogs>0</NumberOfDogs>
:Cause>Mgl. Tillæg</Cause>
:UnequalZones>>false</UnequalZones>
:PaidCash>>false</PaidCash>
:Amount>750</Amount>
:Cancelled>>false</Cancelled>
:ChangedComment/>
:PaymentReceivedByUser/>
>Note/>
:TicketType>Periodekort</TicketType>
:SerialNumber/>
:SingleUseTicketStartZone xmlns:xsi="http://www.w3.org/2001/
:SingleUseTicketNumberOfZones xmlns:xsi="http://www.w3.org/
:RebateCardNumberOfValidations xmlns:xsi="http://www.w3.org/
:RebateCardType/>
:RebateCardIsChild>>false</RebateCardIsChild>
:PeriodCardZones/>
:PeriodCardType/>
:OtherText>pax prøvede at få metro tillæg mens vi snakkede </

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Den 2. maj 2023 anmodede klageren Metro Service om at frafalde kontrolafgiften, da det var hans første rejse med Metroen, og da han køber pendlerkort til 2400 SEK hver måned, men ikke vidste, at det krævede Metrotillæg, når det var til samme destination, som rejsen med S-tog, der var omfattet af hans pendlerkort.

Metro Service fastholdt kontrolafgiften den 3. maj 2023 med den begrundelse, at der siden den 29. september 2019 har været et lovbestemt tillæg for at rejse med Metroen, som klageren ikke havde købt. Metro Service fastsatte betalings- og indsigelsesfristen til 14 dage, hvorefter deres rykkerprocedure ville blive iværksat:

“You have received an inspection fee as your commuter pass does not include the additional Metro fee.

I completely understand your request, because it is just a very unfortunate situation, but regrettably, we find no basis for a reduction or a cancellation of your inspection fee, as it was issued correctly.

When the Cityring opened on 29-09-2019, an additional Metro fee became required for your commuter pass to be valid to travel on the Metro. Information about the additional Metro fee has been available since May 2018 on our website. Furthermore, daily news media (print-, TV and radio) as well as social media and public transportation websites have been used to publish information.

You must actively include or exclude the additional fee, when you purchase your commuter pass. If your commuter pass does not include the Metro fee, you must buy a supplementary ticket to travel on the Metro. However, with a Skånetrafiken 30-day ticket as yours, I believe it is possible to purchase the Metro fee to your existing ticket, without having to refund and purchase a new one. For more information on this subject, I suggest you contact Skånetrafiken: [Skånetrafiken-Skånetrafiken - kontakta oss \(skanetrafi.se\)](mailto:skanetrafi@skanetrafi.se). This way you can ensure that you will not experience a similar situation in the future.

All inquiries into the products of Skånetrafiken and their appearance, information regarding their products and suggestions for improvements of the sales module for the Skånetrafiken app, must be addressed to Skånetrafiken.

Like all other means of public transportation in the greater Copenhagen area, the Copenhagen Metro has a self-service system and it is your responsibility to ensure that your commuter pass has the correct zones and that it is valid for the entire journey.

As you have travelled without the additional Metro fee, your commuter pass is not valid for travel on the Metro and the inspection fee has been issued correctly.

I understand that this was just an unfortunate mistake, and I am sure you did not intend to travel without the metro fee on your commuter pass. However, please know that we are obligated to enforce the joint national travel regulations, and we cannot make exceptions. We are obliged to treat all passengers equally and in compliance with the travel rules. This is the reason why we cannot take good faith and personal circumstances into consideration. We are not allowed to reduce or waiver any inspection fee, unless the customer can prove to have been in possession of a valid, personalized card or ticket at the time of inspection. It is solely a matter of the necessary travel document not being acquired in accordance with the travel rules before boarding.

Considering this, I regret to inform you that you will be charged the full amount of the inspection fee, which we request that you pay as soon as possible. You can pay online here. All major credit cards are accepted. Please type in the number of the inspection fee, which is [xxxxx] and press **Continue**.

If you want to pay by bank transfer, we have attached a new payment form, where you will find information on IBAN, SWIFT and final payment date. Our bank is Nordea Bank, Vesterbrogade 8, 0900 Copenhagen C., Denmark. Please remember to write the number of the inspection fee **011[xxxx]** in "message to recipient".

Further complaints can be directed to The Appeal Board for Bus, Train and Metro at www.abtm.dk. Information, protocols and previous rulings can also be found on the website. If we have not had written confirmation of a further complaint from The Appeal Board within two weeks from today, or received payment from you, our normal reminder procedure will begin."

Metro Service vedhæftede et girokort med seneste betalingsfrist den 17. maj 2023:

"

NR 2023 0000770012
d. 03-05-2023

Date	Description	Reason for issuance (in Danish)	Outstanding amount
17-04-2023	Inspection fee no. 01105344 1 Adult	Mgl. Tillæg	750,00
	Outstanding amount in total		750,00

If the inspection fee is not paid before **17-05-2023**, you will receive a payment reminder with an additional fee of DKK 100.

"

Metro Service hørte ikke fra klageren og sendte derfor en betalingspåmindelse med et rykkergebyr på 100 kr. den 19. juni 2023 til hans E-boks.

Metro Service hørte fortsat intet og sendte den 10. juli 2023 rykkerskrivelse 2 med et gebyr på 100 kr. til klagerens E-boks.

”

NR-2023-00007/0012
d. 10-07-2023

We have not received payment for this inspection fee.

Date	Description	Reason for issuance (in Danish)	Outstanding amount
17-04-2023	Inspection fee no. 01105344 1 Adult	Mgl. Tillæg	750,00
19-06-2023	Fee for payment reminder 1		100,00
10-07-2023	Fee for payment reminder 2		100,00
	Outstanding amount in total		950,00

”

Senere samme dag ringede klageren til Metro Service og spurgte, hvordan han kunne klage videre.

Fra Metro Services telefonlog:

Klageren indbetalte derpå klagegebyret til ankenævnet den 10. juli 2023 og indsendte klageskemaet den 12. juli 2023, hvorefter sagen blev oprettet og sendt i høring i Metro Service.

ANKENÆVNETS BEGRUNDELSE FOR AFGØRELSEN:

Ankenævnet bemærker indledningsvis, at der med Metro tillægget er sket en fravigelse af princippet om, at billetter og kort i København som udgangspunkt er gyldige til den købte periode, de valgte zoner og kan benyttes i bus, tog og Metro.

Trafikvirksomheder i et billetsamarbejde har efter ankenævnets opfattelse derfor en særlig forpligtelse til tydeligt at oplyse kunden herom, når billetter og kort er begrænsede til specifikke transportformer.

Ankenævnet har i tidligere afgørelser (sag 2020-0017, 2021-0144, 23-0084 og 23-0256) udtalt henholdsvis, at det ville være god kundeservice, hvis det fremgik af det endelige pendlerkort, når der ikke er tilvalgt Metrotillæg, og at uanset, at billetter sædvanligvis ikke oplyser, hvad de ikke er gyldige til, kan man ikke udelade en så vigtig oplysning om manglende Metrotillæg på pendlerkort. Den manglende oplysning vejede tungere end, at kunden skal godkende de generelle handelsbetingelser, fordi der er en særlig oplysningsforpligtelse i forbrugerforhold om så tungtvejende forhold, der kan medføre en kontrolafgift på 750 kr.

Det er ankenævnets opfattelse, at den særlige oplysningsforpligtelse i forbrugerforhold også gælder for pendlerkort udbudt af Skånetrafiken til transport i Danmark, når hændelsen finder sted i Danmark.

Det er videre ankenævnets opfattelse, at det som udgangspunkt ikke kan lægges passageren til last, at den pågældende ikke er opmærksom på, at pendlerkortet ikke er gyldigt til rejser med Metroen i de zoner, som pendlerkortet omfatter, når det ikke fremgår af selve pendlerkortet, at det er uden Metrotillæg. I denne forbindelse er det uden betydning, at Metro Service ikke selv har mulighed for at ændre informationen på pendlerkortet, idet Metro Service deltager i billetsamarbejdet med Skånetrafiken.

Klageren købte det første pendlerkort i oktober 2022 med destinationerne Malmø Södervärn – København H. Herved fik han mulighed for at rejse i Øresundszonerne A + FL, der modsvarer zonerne 01, 03 og 04 i Hovedstadsområdet.

Klageren havde ikke tilkøbt Metrotillæg til det oprindelige pendlerkort og havde heller ikke tilføjet dette ved fornyelse af pendlerperioden inden rejsen med Metroen den 17. april 2023. Klageren købte ifølge det oplyste pendlerkortet i oktober 2022, og benyttede dette til rejse med S-tog til Nordhavn st. Han besluttede den 17. april 2023 at ændre rejserute og i stedet at rejse med Metroen til Nordhavn dog uden først at undersøge og sikre sig, at hans pendlerkort var gyldigt hertil. Den omstændighed, at han stolede på en kollegas oplysninger, indebærer ikke, at han dermed anses for at have opfyldt sin undersøgelsespligt.

Herefter blev kontrolafgiften i selve kontrolsituationen pålagt med rette.

Imidlertid finder ankenævnet efter en samlet bedømmelse af sagens omstændigheder, herunder at kunden ved fornyelse af pendlerperioden ikke aktivt skal vælge, om kortet skal være med eller uden Metrotillæg, og at valget ikke fremgår af selve kortets forside, at der har foreligget sådanne særlige omstændigheder, at Metro Service skal frafalde kontrolafgiften mod klagerens betaling af en tilkøbsbillet for rejsen med Metro.

Ankenævnet bemærker, at der ikke er risiko for konkret omgåelse, da klageren nu er vidende om, at det er nødvendigt at tilkøbe Metrotillæg, samt at en generel omgåelsesrisiko kan afværges ved en tydeligere information til kunderne.

Da kontrolafgiften ikke kan fastholdes, skal Metro Service desuden frafalde rykkergebyrerne.

Metro Service skal betale sagsomkostninger på 10.000 kr. til ankenævnet for sagens behandling og må selv gøre eventuel regres over for Skånetrafiken.

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 trafikelskaber 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 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.

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 rejsebegrænsninger ikke overholdes (f.eks. for hvornår cykler må medtages, eller om der er betalt metrotillæg). 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.

Fra renteloven § 9 b, stk. 1 og 2:

Stk. 1. For rykkerskrivelser vedrørende fordringer kan fordringshaveren kræve et gebyr, jf. [stk. 2](#), såfremt skrivelsen er fremsendt med rimelig grund (rykkergebyr). Fordringshaveren kan endvidere kræve et gebyr, jf. [stk. 3](#), for at anmode en anden om at inddrive fordringen på fordringshaverens vegne, såfremt dette er sket med rimelig grund (inkassogebyr).

Stk. 2. Der kan kræves et rykkergebyr på højst 100 kr. for hver rykkerskrivelse, dog højst for 3 skrivelser vedrørende samme ydelse. Har skyldneren inden for en sammenhængende periode til stadighed været i restance vedrørende samme skyldforhold, kan der uanset 1. pkt. højst kræves rykkergebyr for 3 skrivelser vedrørende restancerne i den pågældende periode. Der kan kun kræves gebyr for rykkerskrivelser, som er sendt med mindst 10 dages mellemrum.

PARTERNES ARGUMENTER OVER FOR ANKENÆVNET:

Klageren anfører følgende:

" I got very unfair ticket for the first time, i was tipped the metro is faster and didnt know i have to have add-ons on my ticket which i buy monthly for a year now. My collage has been on the metro same issue but the control let him pass because he didnt know and i got a fine, he is same as me from malmo working in copenhagen and hes willing to witness that he pass with no tickets".

Indklagede anfører følgende:

" Initially, we need to clarify that our inspectors – in connection with ticketing – are instructed to issue inspection fees to all passengers who cannot present any valid kind of travel document. The inspectors must not consider whatever may be the reason for a possible lack of valid travel document but must only relate to that it is the passenger's obligation to present a valid card or ticket and thus had paid for the transport service he or she receives by using the metro.

We cannot comment on the complainant's statement that he was tipped by a 3rd person tipped to take the metro as it was faster and that an inspector had not given this 3rd person an inspection fee.

If a customer for some reason suddenly chooses to take a different travel route than the normal one, it must be expected that he or she - before doing so – make sure to check and secure that the travel documentation in hand is covering this changed journey in total.

The fact in this case is that the complainant was ticketed in the metro April 17th, 2023, after the train had left København H and where the complainant told the inspector, that he was going to Nordhavn station. The complainant presented a ticket valid for 30 days – bought with the Skånetrafiken app – and valid when travelling between Malmö Södervärn – Köpenhamn H, via The Oresund bridge.

The complainant had not bought the metro supplement or any other kind of ticket for his travel with the metro, why the inspection fee was correctly issued.

The metro runs like all other public transport in the Copenhagen Area (and in the rest of Denmark for that matter) after a self-service system, where the customers themselves are responsible for having the valid and correct ticket before entering train and metro. All public transport is regulated according to the rules stated in [The Joint National Travel Regulations](#).

The joint Nation Travel Regulations states among others that:

2.3. Purchase of travel documents

To be able to travel by train, bus and Metro, the customer must be in possession of a valid travel document.

2.4. Purchase of travel document

Public transport in Denmark is an open system with widespread self-service, and it is therefore always the customer's responsibility to have a valid travel document upon boarding, including by ensuring that the Rejsekort has been checked in correctly. On receipt of a travel document, the customer must make sure that the single ticket is in accordance with requirements.

2.4.1. Use of single tickets and cards issued on cardboard, paper or via mobile phone

It is the customer's responsibility to ensure that cardboard or paper single tickets (e.g. the Pensioner's card) are correctly issued and are valid for the entire journey and the area of travel.

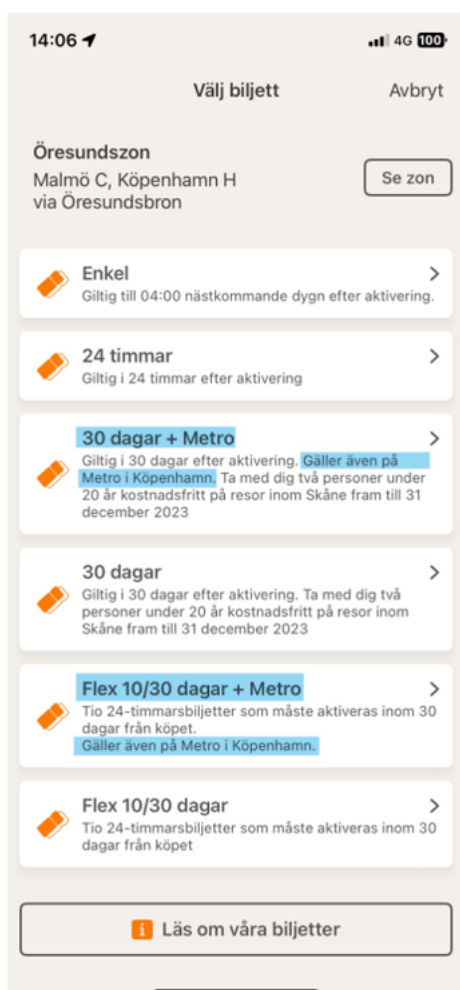
2.7. Inspection fee

2.7.1. Inspection of travel documents

Customers who do not, when requested, present valid travel documents, including having checked in correctly on Rejsekort for their travel, must pay an inspection fee. This also applies if the customer has purchased a travel document via a mobile device that cannot be inspected, for example if it has run out of power or been broken.

A customer who uses a card that is valid for a specific period of time (e.g. a pensioner's card) outside the card's term of validity, or if other means of transport or travel time restrictions are not respected (e.g. lack of surcharge for DSB 1' or for the Metro, or carrying a bicycle outside the times when they are permitted) is also deemed to be a customer without a valid travel document.

When buying the commuter card, the complainant has chosen to buy this without + **Metro** which would have allowed him to use the Metro (the complainant has chosen to buy the product to the left of the arrow a selection of tickets presented when he bought his commuter card)



The complainant's commuter pass was bought to cover the journey from Malmö Södervärn – Köpenhamn H (central station) via The Oresund Bridge and without the extra metro supplement.

A customer can buy a "single trip" +Metro by using the "**Buy add-on**" option. Information about Metro supplement is also available on the [Skånetrafiken.se](https://skanetrafiken.se) (using the Swedish site and choose to get this translated to English) it is clearly stated under **Tickets** -> **Our different tickets** and then **30-day ticket**:

« Tickets

Our different tickets

We have several different tickets to choose from. Some suit you who travel a lot, others are best when you travel occasionally.

Single ticket

You can travel on your ticket for different lengths of time depending on which zone you choose.

Show more ▾

24-hour ticket

Valid for 24 hours after activation. The ticket costs the same as two one-way tickets, and you can travel as much as you want within the selected zone. The ticket is suitable, for example,

Show more ▾

30-day ticket

Suitable for those who commute all or a few days a week and is our most affordable ticket. Travel as much as you want within your zone for 30 days from activation.

Show more ▾



30-day ticket

Suitable for those who commute all or a few days a week and is our most affordable ticket. Travel as much as you want within your zone for 30 days from activation.

If you have a ticket in our app, you can lend it to family and friends.

Smart features in the app

To Denmark

When you buy a ticket to Denmark, you can travel further with Danish local traffic and regional traffic within the zones you have bought a ticket for.

You cannot travel on the Metro with the 30-day ticket. Then you need to buy a 30-day ticket with metro supplement.

Travel to Denmark

Also, under **Tickets -> Prices and discounts** following are stated:

Prices and discounts

The price of your ticket is determined based on which zones you are traveling within, whether you are an adult, child or student, the validity period and whether you are traveling alone or together.

Prices and zones

The price of your ticket is based on how long your journey is - i.e. the zone you are traveling within.

Show more ▾

Within Scania

There are several different zone sizes within Scania. The validity period of the ticket varies based on the size of the zone you travel within.

Show more ▾

Outside Skåne

When you travel outside Skåne, to Denmark, you get zones on both the Swedish and Danish side. The price determines how far you travel in each country.

Show more ▾



Outside Skåne

When you travel outside Skåne, to Denmark, you get zones on both the Swedish and Danish side. The price determines how far you travel in each country.

When traveling across the county border to our neighboring counties, the price for the part of your journey within Skåne is combined with the part you do in one or more neighboring counties. When you buy a trip to a neighboring county, you can always travel further within the arrival zone.

To see zones in our neighboring counties, visit the respective county's website.

[Travel to Denmark](#)



Travel on with the same ticket

This is how you can travel with your ticket in Denmark.

Show more ▾



Travel on with the same ticket

This is how you can travel with your ticket in Denmark.

- When you buy a ticket to Denmark, you can travel further with Danish local transport such as the S-tågen and RE-tågen (DSB), Öresundståg, Movia's city buses, the Havnebussen and the Metro, within the zones for which you have bought a ticket, and within the validity period.
- If you travel with our period tickets, such as the 30-day ticket and flex-10/30, you need a metro supplement, but can travel with other local and regional traffic.
- If you travel with our travel card, you need an inspection receipt if you are going to travel by public transport other than the Öresundstågen in Denmark. The inspection receipt shows what is on the card. You can get the receipt in our ticket machines or at our customer centers.

As mentioned earlier it is the customers own responsibility to secure a valid ticket that can be presented at all times during the journey – and in case the journey for some reason is changed it must be expected that the customer before starting this changed journey secure that the ticket in hand is valid for this new journey.

On May 2nd, 2023, the complainant appealed the inspection fee he received April 17th, 2023, and May 3rd, 2023, we sent our answer which was, that the control fee was correctly issued, as the complainant did not have metro fee included on his commuter pass from Skånetrafiken and could not present any other kind of valid ticket upon inspection.

Included this answer was a payment card with all necessary information, including due date and consequence should he not pay the control fee.

As the due date was not met and we did not hear anything from the Appeal Board, a payment reminder 1 added a fee of 100 DKK was sent to the complainant June 19th, 2023.

The reminder was sent and delivered to the complainants e-Boks as shown below:

Dokument ID	Dokumentnavn	Sendt til e-Boks	Leveret af e-Boks
2563392	1. Betalingspåmindelse	19-06-2023, 11:51:31	19-06-2023, 01:13:27

Still, we did not hear anything from the complainant, did not receive the payment or a complaint case from the Appeal Board why a reminder 2 added a new fee of 100 DKK was sent to the complainant July 10th, 2023.

This was also sent and delivered to the complainants e-Boks as shown below:

Dokument ID	Dokumentnavn	Sendt til e-Boks	Leveret af e-Boks
2604770	2. Betalingspåmindelse	10-07-2023, 11:02:05	10-07-2023, 12:13:27

Later that day – July 7th, 2023 – the complainant contacted Customer Service by phone at 12:55 asking why he had not received any letters sent to his address and asked how to proceed with the case.

Our employee told him, that we always reply to inquiry by using the e-mail, the customer themselves writes in the inquiry, and in case we do not receive the payment according to the due dates, reminders will be sent to the customers e-Boks (and by letter in case the customer does not have an e-Boks).

The employee also told the complainant that if he wanted to proceed with the case, he had to make a complaint to the Appeal Board.

As we still did not hear anything or received the payment, the claim was sent to Gældsstyrelsen for collect August 1st, 2023.

Due to information from the Appeal Board, it appears that the complainant did in fact contact the Appeal Board before we handed the case over to Gældsstyrelsen for collect which is why the case was redrawn from Gældsstyrelsen September 25th, 2023, for the case to be handled by the Appeal Board

Our conclusion is therefore and in accordance with the Joint National Travel Regulations that the complainant did not have the metro supplement or any other ticket to present and did therefore not have a valid travel document to present upon inspection. Due to this we find the inspection fee correctly issued and maintain and uphold our claim of 750 DKK as it is indisputably that the complainant has received a service, he had not paid for.

We also uphold the reminder fees of 2 x 100 DKK, as the complainant did not react before he had received the 2 reminders and after worth had contacted Customer Service for guidance to how he could proceed with the case.

Our claim is therefore 950 DKK.”

Til dette har klageren gjort gældende:

“seems all are general statement.

We cannot comment on the complainant’s statement that he was tipped by a 3rd person tipped to take the metro as it was faster and that an inspector had not given this 3rd person an inspection fee.

Is 3rd person not enough to approve this happened, its more than fair to approve the fine is not for everyone ?

And even i told the control, i always use the train to Osterports with more than a year of monthly ticket but never used the metro and never knew before this i had to pay for the metro

if im paying 2500 sek why i dont add this 90 sek !! doesn't make since

The fact in this case is that the complainant was ticketed in the metro April 17th, 2023, after the train had left København H and where the complainant told the inspector, that he was going to Nordhavn station.

The complainant presented a ticket valid for 30 days – bought with the Skånetrafiken app – and valid when travelling between Malmö Södervärn – Köpenhamn H, via The Oresund bridge.

The complainant had not bought the metro supplement or any other kind of ticket for his travel with the metro, why the inspection fee was correctly issued.

I only buy monthly i never used the metro before can you check my original statement!

the dates are correct when i called was waiting for the post any the told me its only on E-boks, after that i have done the complain but i had contact the appeal board before even the second fee and took them few month to figure where is my complain!

its was an issue between the mail form (word document and filling the online document.) and still i got the extra fee on the month is late.”

Metro Service har svaret:

“We cannot be responsible for any misleading guidance given by a 3rd person.

As stated in the [Joint National Travel Regulations](#) it is clear, that it is the customer own responsibility before entering the metro to secure a valid ticket or card, which can be presented upon request by the inspector.

2.4.1. Use of single tickets and cards issued on cardboard, paper or via mobile phone

It is the customer's responsibility to ensure that cardboard or paper single tickets (e.g. the Pensioner's card) are correctly issued and are valid for the entire journey and the area of travel.

2.7.1. Inspection of travel documents

Customers who do not, when requested, present valid travel documents, including having checked in correctly on Rejsekort for their travel, must pay an inspection fee. This also applies if the customer has purchased a travel document via a mobile device that cannot be inspected, for example if it has run out of power or been broken.

A customer who uses a card that is valid for a specific period of time (e.g. a pensioner's card) outside the card's term of validity, or if other means of transport or travel time restrictions are not respected (e.g. lack of surcharge for DSB 1' or for the Metro, or carrying a bicycle outside the times when they are permitted) is also deemed to be a customer without a valid travel document.

When buying a monthly card via the Skånetrafiken app, the customer is presented to the option with or without Metro.

If for some reason a customer suddenly wants to go to another destination, which include other kind of transport forms, the customer himself must check if there are special circumstances that applies, and whether the ticket or card in hand is valid or not for this changed or expanded journey. This information should be obtained from the actual transport company and not from a random 3rd person.

In cases where a customer cannot present a valid ticket or card, an inspection fee is issued, where or not it might be the first time, or whether the customer refers to being in good faith.

There is no doubt that the complainant has received a service that he has not paid for, and that the control fee therefore have been issued and subsequently maintained correctly.

Regarding the 2nd reminder we must refer to the fact, that the complainant did not pay the fee to the Appeal Board until August 18th, 2023 - after the reminder was sent and delivered to July 10th, 2023.”

Og videre:

”Kunden har nu (på foregående og nuværende pendlerkort) tilvalgt Metro fast til sit pendlerkort, så spørgsmålet er, om han allerede fra start bevist(eller ubevidst) manglede tilkøbet, og således har benyttet Metroen hele tiden, uden at betale for det, tillægget blev jo indført helt tilbage i september 2019.”

På ankenævnets vegne



Lone Bach Nielsen
Nævnshoved