

AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

- Journalnummer:** 23-0345
- Klageren:** XX
Utrecht, Nederlandene
- Indklagede:** Metroselskabet I/S v/Metro Service A/S
CVR-nummer: 21 26 38 34
- Klagen vedrører:** Kontrolafgift på 750 kr. grundet manglende rejsehjemmel samt 100 kr. i rykkergebyr
- Parternes krav:** Klageren ønsker, at ankenævnet annullerer kontrolafgiften, og gør gældende, at han havde glemt sit City Pass på hotellet og købte endnu et City Pass efter kontrollen, så han har i alt brugt 524 kr. på transport. Den konference, han deltog i, tilbød et specielt rejsepas, hvilket han dog ikke var bekendt med
- Indklagede fastholder kontrolafgiften og rykkergebyret
- 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 er berettiget til at opretholde kravet om klagerens betaling af kontrolafgiften på 750 kr. og rykkergebyret på 100 kr.

Klageren skal betale beløbet til Metroselskabet I/S v/Metro Service A/S, 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, www.advokatnoeglen.dk og /eller eget forsikringselskab om eventuel forsikringsretshjælp.

SAGENS OMSTÆNDIGHEDER:

Klageren var på konference og privat besøg i København i perioden 8. -16. september 2023 og havde købt et City Pass til 300 kr. med gyldighed fra den 8. – 13. september 2023. Et City Pass er en upersonlig billet, der er gyldig for ihændeholderen.



Den 9. september 2023 skulle klageren rejse med Metroen, men havde glemt City Pass-billetten i en anden jakke på hotellet, og han kunne derfor ikke vise nogen billet ved kontrol i Metroen.

Ifølge klageren viste han sit CIRSE-konferencebadge og en bankkvittering for betaling af 300 kr. til DSB til stewarden, der pålagde ham en kontrolafgift på 750 kr., imens stewarden forsikrede ham om, at når han var deltager på CIRSE-konferencen, ville kontrolafgiften sandsynligvis blive annulleret.

Ifølge Metro Service er der stor forskel på et City Pass, der kan benyttes af enhver og et "Travel Pass", der udstedes af store event-organisatorer, der køber rejsehjemmel fra trafikvirksomhederne, og efterfølgende udsteder til deltagere i eventet. En sådan særlig billet er personlig med navn og er altid kombineret med et krav om at vise ID ved en billetkontrol. Hvis klageren under kontrollen oplyste, at han havde et sådant Travel Pass, er det baggrunden for stewardens oplysning om, at kontrolafgiften nok ville blive reduceret. Stewarden noterede følgende på den elektroniske kontrolafgift:

<OtherText>glemt billet var på Bella center konference </OtherText>

Efter kontrolafgiften købte klageren en billet til 24 kr. for at komme retur til hotellet, og endnu et 3-dages City Pass fra den 13. – 16. september 2023.

Samme dag som kontrolafgiftens udstedelse, den 9. september 2023, anmodede klageren Metro Service om at annullere kontrolafgiften og vedhæftede et foto af sit City Pass og konferencebadge.

I am visiting the CIRSE congress at Bella centre. I have bought a 5-day travel pass for which I have personal proof of payment on my bank account transactions. I forgot to bring the pass with me during travel (it was left in my coat).

Metro Service anmodede om en kopi af et gyldigt Travel Pass:

A Travel Pass is considered to be a personal ticket, and as such, we need a copy of your ticket before we can handle the case. It is not permitted to travel on a payment receipt or bank statement; Only original cards and tickets are accepted.

Therefore, please send in a copy of the travel pass that was valid at the time the inspection fee was issued. When we receive the copy, we will re-open and handle the case.

Klageren henviste til, at han allerede havde indsendt sit gyldige City Pass. Herefter fastholdt Metro Service kontrolafgiften, da klageren ikke havde indsendt noget "Travel Pass":

It seems there has been a misunderstanding between us.

The CIRSE Travel Pass was a personalized ticket that was offered to the participants of CIRSE. The ticket was personalized with the participant's name and must be presented alongside identification.

Unfortunately, the ticket you have sent us is a City Pass, which is not the same as the Travel Pass. A City Pass paper ticket is not personalized with a name or photograph, and as such, we cannot accept subsequent presentation of these. They can be shared with others, and thus, a paper city pass ticket is only valid when presented by the ticket holder upon inspection.

Additionally, it is not possible to have an inspection fee annulled based on a receipt or bank statement, as the ticket itself can be shared with other passengers, regardless of who paid for it.

Therefore, we recommend adopting the habit of making sure that you check your ticket before you board the metro. This way, you will ensure that your ticket is valid and you will be able to purchase a new ticket, should you find out that you have lost it.

Klageren oplyste herefter, at han ville klage til ankenævnet, hvorefter Metro Service præciserede, at de ikke kunne tage god tro i betragtning eller tidligere rejsehjemler/billetter, og de fastsatte en betalingsfrist til den 4. oktober 2023. Da Metro Service ikke hørte yderligere fra klageren, sendte de ham en betalingspåmindelse den 1. november 2023, hvorefter kravet udgjorde 850 kr.

Herefter indbragte klageren sagen for ankenævnet, hvor han har fremlagt invitationen fra Cirse-konferencen, der viser, at deltagerne via et link til DOT kunne købe et Travel Pass, hvilket klageren ikke havde gjort.

ANKENÆVNETS BEGRUNDELSE FOR AFGØRELSEN:

Selv om det var uheldigt, at klageren glemte sit City Pass på hotellet inden rejsen med Metroen den 9. september 2023, og at han heller ikke havde benyttet linket i kongresinvitationen til at købe

et Travel Pass via DOT, ændrer dette ikke ved, at klageren ved kontrollen ikke kunne forevise nogen rejsehjemmel.

Da et City Pass er en upersonlig billet, som er gyldig for ihændeberen, kan klageren efter ankenævnets praksis ikke indsende dette efterfølgende og få nedsat en kontrolafgift.

Kontrolafgiften for manglende forevisning af rejsehjemmel, blev dermed pålagt og fastholdt med rette.

Den omstændighed, at klageren kunne have købt et personligt Travel Pass som deltager på kongressen, kan ikke føre til et andet resultat, idet klageren ikke benyttede sig af denne mulighed. Ej heller kan det føre til et andet resultat, at klageren endte med at købe billetter for et større beløb.

Det understreges, at det ikke er en betingelse for at pålægge en kontrolafgift, at passageren har handlet med forsæt, hvorfor ankenævnet finder, at der ikke har foreligget sådanne særlige omstændigheder, at kontrolafgiften skal frafaldes.

Klageren overholdt ikke betalings- og indsigelsesfristen, hvorfor Metro Service var berettiget til at sende ham en betalingspåmindelse med et rykkergebyr på 100 kr., jf. renteloven § 9 b, stk. 1 og 2.

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 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.

Fra renteloven § 9b:

”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 was on travel in Copenhagen for the medical Cirse conference and for a personal visit. This conference offered a special travel pass. At the moment of my arrival in Copenhagen, I was not aware of the personalized CIRSE offer. I therefore bought a regular City Pass, apparently not using the reduced fair CIRSE Travel Pass that was available to me.

In total during my stay in Copenhagen, I have bought the following Metro passes for a total of 524 DKK, of which transcripts of bank account transcriptions are attached.

5-day Pass - 8 till 13 Sept

One-way pass - 9 Sept (due to forgotten Pass)

3-day Pass - 13 till 16 Sept

On a travel on 9 Sept, I did not have the City Pass with me due to a change of jackets, and did not think of this during boarding. In public transport in the Netherlands I am used to automated gates that require a ticket when entering the station, which is why this is no longer a routine habit for me. I was only able to show a CIRSE badge and a bank transfer of my City Pass, so the officer presented me with the inspection fee of 750 DKK, although he re-assured me that in the circumstances and being a CIRSE visitor that a fee withdrawal was likely.

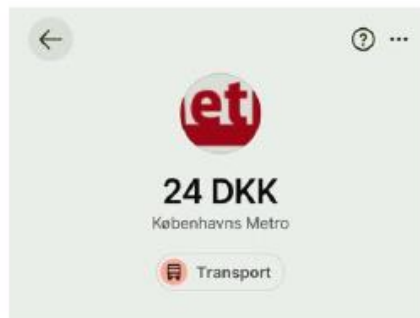
So in total, I have spent more on metro tickets than the options that were available to me, and forgot my ticket once during an 8-day travel period. Therefore, I argue that there was a close-to-certain probability that I appropriately paid for the metro fee during my travel with the metro on 9 Sept. As such, I request a reduction of the inspection fee to a single fare ticket or a withdrawal of the fee.



Transaction details

When 8 September 2023 at 16:20
Where Kastrup, Denmark
Which card 2193
Authorised via Apple Pay
Note [Add](#)

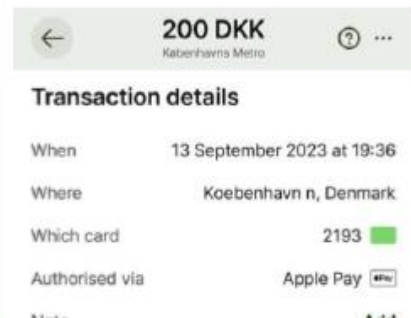
[Add receipt](#)
PDF, JPEG or PNG less than 10MB



Transaction details

When 9 September 2023 at 22:05
Where Koebenhavn v, Denmark
Which card 2193
Authorised via Apple Pay
Note [Add](#)

[Add receipt](#)
PDF, JPEG or PNG less than 10MB



Transaction details

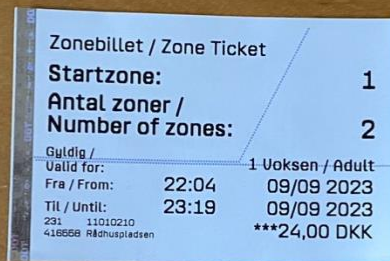
When 13 September 2023 at 19:36
Where Koebenhavn n, Denmark
Which card 2193
Authorised via Apple Pay
Note [Add](#)

[Add receipt](#)
PDF, JPEG or PNG less than 10MB

Conversion details

EUR
Amount taken 26,95 EUR
Our conversion fee 0,14 EUR
Exchange rate 7,46015
[ECB rate comparison](#) 0,54%

[View fees and rates](#)





Og videre:

“In the message from the Metro Service, the details of my communication with the steward and the Metro service over email appear correct.

I nevertheless assert that my presented documents demonstrate that I was in possession of the necessary travel tickets beyond reasonable doubt. Second, as additional context in this case, I have paid a surplus for the ticket relative to the reduced price that was available to me as CIRSE conference faculty member (i.e. City Pass instead of Travel Pass), which I can submit proof of if necessary.

I therefore consider it unreasonable to justify the inspection fee, and I would hope that the Metro Service is open to circumstantial evidence that does not provide absolute certainty, but a certainty beyond reasonable doubt. “

Indklagede anfører følgende:

“ In the specific case, the complainant was met by our inspector September 9th, 2023, at 17:54 between Ørestad station and Christianshavn station. The complainant could not present a card or ticket but explained to the steward that he was at a conference in the Bella Center and that he had forgotten his travel permit in another coat. As the complainant did not have a ticket, an inspection fee was issued in accordance with current regulations.

The metro runs, like the other public transport in the Greater Copenhagen area, according to a self-service system, where it is the passenger's own responsibility before boarding, to secure a valid ticket or card, which can be presented on request. The fact that public transport in other countries works differently has no bearing on how you travel in Copenhagen.

In cases where a valid travel document cannot be presented on request, it must be accepted to pay an inspection fee, which for an adult amount to DKK 750. This basic rule is a prerequisite for the self-service system that applies to travel by public transport in the Greater Copenhagen area.

The above appears both on the information boards at the stations and in the Joint National Travel Regulations, which can be read in their entirety at this link: [Joint-National-Travel-Regulations-20230607.ashx \(re-
jsekort.dk\)](https://www.jsekort.dk)

In his inquiries to Metro and to the appeals board, the complainant describes the following:

1. that he was not aware that the conference offered the participants a discounted ticket product and that he therefore bought a 5-day City Pass at the regular price on his arrival in Denmark.
2. that in the control situation he showed the steward his participant badge and a bank transaction and that he explained to the steward that he was in possession of a *Travel Pass* but had simply forgotten it in another coat.

The complainant informs that in his home country of the Netherlands a ticket must be used to get through automatic gates when entering a station and that if there had been the same system in Copenhagen, he would have noticed that he did not have the ticket with him.

The complainant also describes that when he explained to the steward that he had a *Travel Pass*, the steward assured him that the inspection fee would probably be withdrawn.

First, we would like to clarify that there is a very big difference between a *City Pass* and a *Travel Pass*. A *City Pass* is first and foremost an impersonal ticket that you buy from a machine, and which is only valid if it is presented at the ticket control.

A *Travel Pass* is a heavily discounted ticket product that only event organizers of very large and closed conferences and congresses can buy from the transport companies and then offer to their participants. Travel Passes are never offered in general trade and will always be personalized with the participant's name and attached to a rule about showing ID in connection with ticket control.

So, when the complainant informed the steward that he had forgotten his *Travel Pass* and also presented his participant badge, the steward naturally responded on the assumption that the complainant was in possession of a personal travel permit which allows for a reduction of the fee amount.

However, the complainant was not in possession of a *Travel Pass* and thus did not have a personal ticket. As mentioned above, a *City Pass* is an impersonal travel document and only valid when/if it is presented in the control situation itself, since such a type of ticket can be used by anyone regardless of who may have paid for it.

If you cannot present the *City Pass* at ticket control, a subsequent presentation will not be accepted. It is thus described in the joint national travel regulations, at the bottom of section 2.6.:

If a valid travel document cannot be presented on request during inspection, it will not be possible to have to get a reduction or cancellation of a inspection fee by subsequent presentation of travel documents, see section 2.7.5, however, concerning travelling without a Commuter Pass.

We are sorry that the complainant, before he arrived in Copenhagen, was not aware of the possibility to buy a personal Travel Pass in connection with participation in the CIRSE conference, however, this is not Metro's responsibility.

When and if an event organizer enters into an agreement with the transport companies about the Travel Pass, it is only the event organizers who provide the opportunity to their participants; the transport companies do not know who the participants are.

We understand that it is an unfortunate situation for the complainant to have forgotten his ticket, but this does not change the fact that subsequent presentation of an impersonal ticket and/or e.g., bank statement will not be accepted and we draw attention to previous appeal cases e.g. 2022-0075 and 2019- 0177 which are comparable to the present case and where the decision was made in favor of the respondent company.

When you receive an inspection fee in the metro, you have 14 days to either object or pay. The complainant received his inspection fee on 9 September 2023 and complained to Customer Service the same evening.

As a result of the case handling, the deadline for payment was moved to 4 October and the case handler sent an updated payment form in her third and final reply to the complainant on 20 September 2023 and informed that the complainant had the option to appeal the decision to the Appeals Board for Bus, Train and Metro and informed that if Metro had not received notification from Appeal Board that an appeal case had been opened before the payment deadline expired on 4 October 2023, the complainant would receive a payment reminder with an additional fee of DKK 100.

Metro did not hear anything further from the complainant, nor received payment and therefore a payment reminder was sent to the complainant on 1 November 2023. The fee for the payment reminder amounts to DKK 100.

With reference to the above, we maintain that the inspection fee is rightly imposed, and that the subsequent decision is correct. Therefore, we maintain our demand for payment of the inspection fee of DKK 750 and the payment reminder of DKK 100, a total of DKK 850.

If the Appeal Board can confirm that the complainant has created an appeal before 4 October 2023, the fee for the payment reminder will be cancelled.”

Og videre:

“As we explained in our answer of 22 November 2023, a City Pass is an impersonal travel permit which is only valid if it is presented in the control situation itself.

The fact that the complainant, as a conference participant, *could* have bought a different and cheaper travel permit is not relevant in relation to the fact that the complainant did not present any valid travel permit at ticket inspection.

We maintain our demand for payment of the inspection fee of DKK 750 and the payment reminder of DKK 100, a total of DKK 850.”

Og videre:

“Thank you for copies of the access card and more, although the complainant's participation in a conference in the Bella Center has not been in doubt.

But the fact that the complainant *could have* bought a personal and price-reduced Travel Pass is not relevant to the case since *he did not buy it.*”

På ankenævnets vegne



Lone Bach Nielsen
Nævningsformand