

AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

- Journalnummer:** 24-0066
- Klageren:** XX
8000 Aarhus
- Indklagede:** Metroselskabet I/S v/Metro Service A/S
CVR-nummer: 21 26 38 34
- Klagen vedrører:** Kontrolafgift på 750 kr. grundet forevisning af en kvittering fra en anden passagers billetkøb
- Parternes krav:** Klageren ønsker, at ankenævnet annullerer kontrolafgiften, og gør gældende, at den manuelle kontrolafgift, som blev udleveret til hende, er dateret med en dato, hvor hun ikke befandt sig i København, og derfor ikke vedrører hende
- Indklagede fastholder kontrolafgiften
- Ankenævnets sammensætning:** Nævnensformand, dommer Lone Bach Nielsen
Torben Steenberg (2 stemmer)
Helle Berg Johansen
Dorte Lundqvist Bang

Ankenævnet for Bus, Tog og Metro har på sit møde den 28. august 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.

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.

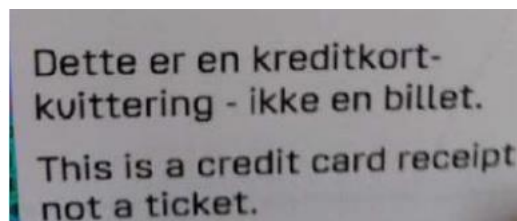
- oOo -

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 forsikringssselskab om eventuel forsikringsretshjælp.

SAGENS OMSTÆNDIGHEDER:

Klageren, der er engelsktalende, rejste med Metroen den 11. februar 2024, hvor hun ved kontrol af sin rejsehjemmel foreviste en kvittering for et billetkøb. Den konkrete kvittering er ikke fremlagt i sagen, men her vises et eksempel:



På klagerens telefon fremgik det, at var reserveret et beløb på 30 kr. for et køb i "Metrostation Lufthavne" den 11. februar 2024, hvilket hun foreviste til stewarden:



Da en kvittering for et billetkøb ikke er en gyldig billet, blev klageren pålagt en kontrolafgift på 750 kr. kl. 13:04:00. Dette indtastede stewarden på sit udstyr, hvorefter den elektroniske kontrolafgift så således ud:

```

<CreatedDate>2024-02-11T13:11:47.5400000</CreatedDate>
<CivilRegistrationNumber>231185[REDACTED]</CivilRegistrationNumber>
<Sex>female</Sex>
<FirstName>[REDACTED]</FirstName>
<LastName>[REDACTED]</LastName>
<CName/>
<StreetName>[REDACTED]</StreetName>
<StreetNumber>[REDACTED]</StreetNumber>
<Floor>2</Floor>
<Side>0004</Side>
<PostalCode>8000</PostalCode>
<City>Aarhus C</City>
<Country>Danmark</Country>
<CPRStatusCode>1</CPRStatusCode>
<FeeDate>2024-02-11T13:04:00.0000000</FeeDate>
<Line>M1/M2</Line>
<StationFrom>Amager Strand</StationFrom>
<StationTo>Kongens Nytorv</StationTo>
<Adult>>true</Adult>
<Child>>false</Child>
<NumberOfBikes>0</NumberOfBikes>
<NumberOfDogs>0</NumberOfDogs>
<Cause>Købt på kvittering</Cause>
<UnequalZones>>false</UnequalZones>
<PaidCash>>false</PaidCash>
<Amount>750</Amount>
<Cancelled>>false</Cancelled>
<ChangedComment/>
<PaymentReceivedByUser/>
<Note/>
<TicketType>Papirbillet</TicketType>
<SerialNumber/>
<SingleUseTicketStartZone xmlns:xsi="http://www.w3.org/2001/XMLSchema-instance" xsi:nil="true"/>
<SingleUseTicketNumberOfZones xmlns:xsi="http://www.w3.org/2001/XMLSchema-instance" xsi:nil="true"/>
<RebateCardNumberOfValidations xmlns:xsi="http://www.w3.org/2001/XMLSchema-instance" xsi:nil="true"/>
<RebateCardType/>
<RebateCardIsChild>>false</RebateCardIsChild>
<PeriodCardZones/>
<PeriodCardType/>
<OtherText>pax havde en kvittering som ikke var hendes på hendes kreditkort. sygesikring scannet</OtherText>

```

Stewarden kom til at fejldatere den manuelt udfyldte kontrolafgift, der blev udleveret til klageren, idet stewarden skrev "11.1.24":

+71<000000119256543 +85611615<

Kontrolafgiftsnr.: 01192565-43
Fare evasion ticket no.

Dag Måned År Klokker Steward ID
Day Month Year Time Steward ID

11 1 24 13:04 21197

Fra From: WFTLANDEN
Til To: ~~ØSTERSØ~~ KCS NITON

Årsag Cause: TICKET

Kroner Øre
Ialt Total: 750 00

Kreditnummer 85 61 16 15

Metro Kundeservice
Metrovej 3
2300 København S

Vigtige oplysninger for din fortsatte rejse
Kontrolafgiftens indbetalingskort er gyldig som enkeltbillet til den fortsatte rejse. Billetten gælder kun til en enkelt ubrudt rejse med metro til den station, som den rejsende har oplyst ved udstedelsen. Omstigning er dog tilladt. Ved kontrolafgift udstedt til børn (under 16 år) gælder, at kontrolafgiften kan anvendes som rejsehjemmel i både busser, tog og metro i zone 1-99 fra tidspunktet for udstedelsen og resten af billetdøgnen.

Important information about your continued journey
The payment slip for this fare evasion ticket is valid as a single fare ticket for your continued journey. The fare evasion ticket is only valid for one continued journey with the Metro, to the station mentioned as your destination when the fare evasion ticket was issued. If the fare evasion ticket is issued to a child (under the age of 16), it is valid as a ticket for buses, trains and Metro in zones 1 through 99.

Samme dag som kontrolafgiften blev udstedt, den 11. februar 2024, udfyldte klageren Metro Services klageformular og skrev, at hun først ved kontrollen var blevet klar over, at hun havde medtaget en anden kundes kvittering for et billetkøb, men at hun havde betalt 30 kr. for en billet:

”

Dato for modtagelsen

11/02/2024

Beskrivelse

Hi,

Today, on 11 February 2024, from Copenhagen airport, around 12.30 pm, I bought the ticket for 3 zones-30,00 kr, confirmed it with my mobile pay and I received the bank transaction notification from Danske bank. (I attached the copy of ticket price transaction picture. My card number ends with 0516.)

However, by mistake, I took someone elses receipt from the ticket box instead of my ticket. I noticed it while showing it to inspector.

I know it is my fault, but It is obvious that I did not have any intention to use metro without ticket.

Could you please check my bank transaction ends with my card number and cancel my fine. I attached their pictures. All transactions on Sundays are shown as pending since it is bank holiday.

Hvem har modtaget kontrolafgiften?

Kontrolafgiften er udstedt til mig personligt

”

February 2024

Kongens Nytorv Station

11 Feb 2024

-30.00

Reserved

Metro Service fastholdt kontrolafgiften, da en kvittering ikke er en billet, og da skuffen i automaten lyser, mens billetautomaten printer billet og kvittering, samt at det står tydeligt anført på engelsk på kvitteringen, at det ikke er en billet. Efterfølgende indsendelse af en upersonlig billet eller en bankkvittering indebærer ikke, at en kontrolafgift skal annulleres, da disse kan deles mellem flere passagerer, uanset hvem der har betalt:

"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.

You have received an inspection fee, as you were unable to present a valid ticket when you were subject to a ticket inspection in the metro.

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 before boarding the metro.

On the receipts printed by our ticket vending machines, it is clearly stated that it is a receipt and not a ticket. A cash ticket is an impersonal ticket and is therefore only valid by the holder when shown upon ticketing.

When you purchase tickets in the ticket machines at the metro, these are printed separately, and the light flashes in the 'drawer' into which the tickets and receipt fall until all tickets and receipts are printed. All details concerning the ticket, including number of passengers included and validity period, is printed on the front in both Danish and English.

We do not accept subsequent presentation of impersonal tickets, as these are not personalized with a name or a photograph of the ticket holder. 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.

I do understand that it was a mistake and a very unfortunate situation as you unfortunately took another passenger's receipt instead of your own ticket and receipt. However, it is not possible for us to take the intention of the passenger or simple mistakes into consideration when determining whether an inspection fee has been issued correctly or not, I am sorry. Please note, that we of course do not suspect you of sharing your ticket with another passenger. These regulations are made because there otherwise is a too high chance of circumventing the travel regulations. As we are obligated to treat all passengers equally according to the travel regulations, it is therefore not possible to make an exception in this specific case, I am sorry.

Considering this, you will be charged the full amount of the inspection fee, which we request that you pay as soon as possible."

Klageren skrev derfor til Metro Service, at der på hendes kontrolafgift var skrevet en dato, hvor hun ikke var i København, hvorfor kontrolafgiften ikke vedrørte hende:

”

Hi,

Since you are so sensitive on material breaches, we also expect the same sensitivity on fines. The attached fine receipt shows the date of 11 January 2024, when I was definitely not in Copenhagen and was working from Aarhus office.

This ticket is not correct, and does not belong to me.

”

Metro Service beklagede fejlen, men fastholdt, at kontrolafgiften var udstedt den 11. februar 2024.

“I must, of course, apologize on behalf of our steward if the date of issue on your inspection fee does not match the exact date of issue. However, I must mention that it is not a decisive factor for whether the inspection fee has been issued correctly. When our stewards issue an inspection fee, all data is recorded electronically in their equipment, including the correct time stamp, which in your case is: 11-02-2024 at 13:04.”

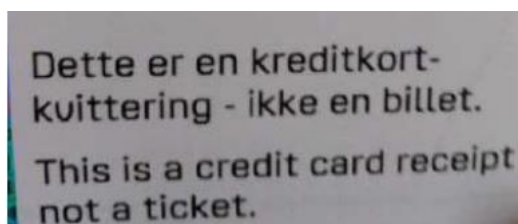
ANKENÆVNETS BEGRUNDELSE FOR AFGØRELSEN:

Indledningsvist bemærker ankenævnet, at stewarden skrev på den elektroniske kontrolafgift, at han havde scannet klagerens sygesikringskort til brug for identifikationen. Kontrolafgiften der blev indtastet på stewardens udstyr i forbindelse med kontrollen, er dateret den 11. februar 2024, og klageren skrev samme dag til Metro Service, at hun lige var blevet pålagt en kontrolafgift.

Derfor lægger ankenævnet til grund, at kontrolafgiften blev udstedt til klageren på rejsen den 11. februar 2024. Den omstændighed, at stewarden begik en åbenbar dateringsfejl på den manuelt udfyldte kontrolafgift til klageren, medfører ikke, at kontrolafgiften i sig selv bliver ugyldig.

Klageren tog kun en kvittering fra automatens skuffe og undersøgte ikke, om der var tale om en billet, inden hun steg om bord på Metroen.

Teksten “This is a credit card receipt not a ticket” fremstår tilstrækkeligt tydeligt, og der var intet andet, som kunne indikere over for klageren, at der var tale om en billet til 30 kr.



På billetter står der tidspunkt, zoner og kundetype også på engelsk.

Ankenævnet lægger herefter til grund, at klageren ikke undersøgte kvitteringen nøjere og derfor ikke sikrede sig, at det købte svarede til det udleverede, således som det fremgår af de fælles rejseregler, at kunden skal.

Det beroede herefter på klagerens eget forhold, at hun ikke var opmærksom på, at hun kun medtog en kvittering, hvilket må have været fra en tidligere passagers køb, idet billetter udskrives først og derefter kvittering, hvis kunden har valgt kvittering.

Den omstændighed, at klageren efterfølgende har fremlagt bankudskrift på et køb til 30 kr., kan efter ankenævnets faste praksis ikke medtages i bedømmelsen af, om klageren var i besiddelse af gyldig rejsehjemmel ved kontrollen, da billetten skal kunne forevises ved kontrollen.

Dette er et område med stor mulighed for omgåelse af reglerne om at forevise gyldig billet, hvis det accepteres, at en kvittering kan fungere som en billet, hvorfor ankenævnet finder, at der ikke har foreligget sådanne særlige omstændigheder, at klageren skal fritages for at betale den pålagte kontrolafgift.

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.

Det er passagerens ansvar, at rejsehjemlen er endeligt modtaget på den mobile enhed før påstigning.

PARTERNES ARGUMENTER OVER FOR ANKENÆVNET:

Klageren anfører følgende:

” The ticket given to me by inspector shows the January 11, 2024. I was not even in Copenhagen at this date. It is material breach in ticket, far from being legal and applicable.
You cannot fine people by changing the dates, without writing the name. This inspection ticket does not belong to me and maybe belong to someone else.

In case you trying to charge people for showing the receipt but losing the ticket or for all kind of reasons, you need to show same sensitivity on your actions.

I clearly show the ticket receipt and my bank transfers to your team, but no one is not checking my payment, instead just want me pay for this incorrect ticket.

Ønsker at opnå: I paid my ticket as presented to your team and the money transferred from card to your account.

I want this ticket to be cancelled since it is material breach in fine, totally incorrect. I was not in CPH at this date, and I paid my ticket on 11 February 2024. “

Indklagede anfører følgende:

“ In the specific case, the complainant was met by our inspector February 11th, 2024, after the metro had left Amager Strand metro station and as she could not present a valid ticket upon inspection an inspection fee was issued at 13:04.

The complainant presented a receipt which was not hers.

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.

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 750 DKK.

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 also appears from the [Joint National Travel Regulations](#), and is also stated on the information boards, which can to be found at all metro stations.

When dealing with cards/tickets without name and/or photo, these are impersonal travel documents and therefore only valid when presented at the time of ticket control. A ticket without name is an impersonal travel document, and therefor only valid for the person who presents it to the staff at the time of inspection.

Whoever may have bought and/or paid for the ticket is therefore irrelevant, and subsequent documentation for a ticket purchase is not accepted.

As this kind of ticket can be passed on to third person and thus be used by anyone, a presentation/documentation of the purchase or a receipt/account statement will not result in neither complete write-off nor reduction of the fare evasion ticket.

In the Joint National Travel Regulations, it is among others stated in section **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.

.... at the bottom of section **2.6 Inspection of travel documents**:

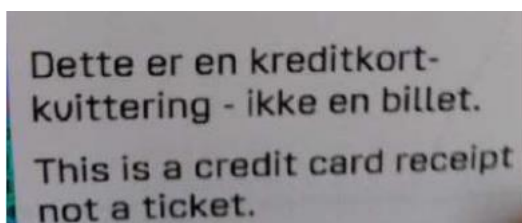
If a valid travel document cannot be presented on request during inspection, it will not be possible to have to get a reduction or cancellation of an inspection fee by subsequent presentation of travel documents, see section 2.7.5, however, concerning travelling without a Commuter card.

... and in section 2.7.1. **Inspection of travel document:**

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.

Had the complainant checked the paper she had in hand, she would easily have been able to see that it was a receipt and not a ticket she had taken.

On the paper it was written that it was a credit card receipt and not a ticket:



It is of course a very unfortunate situation, but as we want to treat all customers equally, we do not take into account whether a customer has acted in good or bad faith, or whether the customer may be a tourist, child, student or pensioner. We only relate to the fact that the customer must have a valid ticket in hand before entering the metro and also be able to present this upon request at any time during the journey - if this is not the case, it must be accepted that an inspection fee is issued.

In earlier cases like this The Appeal Boards decisions has been, that the traffic companies were entitled to uphold their claim, as an unpersonal ticket are only valid for the person who presents it at the time of inspection and presenting subsequently receipt or an account statement from the bank for the purchase does not change this.

Regarding the complainant's reference to the fact that the inspection fee should have been issued the month earlier as the inspector by mistake had written 1 instead of 2 under month, and where the complainant refers to having been in Aarhus at this time, we must of course apologize for this error, but must also refer to the electronic inspection fee (full document attached) where the electronic time stamp shows:

```
<CPNStatuscode>1</CPNStatuscode>
<FeeDate>2024-02-11T13:04:00.
<Line>M1/M2</Line>

<group />
<CreateDate>2024-02-11T13:11:47.
<CustomerIdNumber>72110536
```

Based on the above we find the inspection fee correctly issued and maintained, and due to this we uphold our claim of 750 DKK.

Hertil har klageren gjort gældende:

” The responsible people do not even check my objection despite I showed my bank transaction to system. They could easily check the relevant transaction with my bank card number, but the intention is far away from good sake.

Also, while this system does not accept any kind of mistake from Citizens, it entitles all kind of rights to it-self including making mistake, incorrect statements, not checking the transactions and not chasing the truth.

The regulations are man made and can be questioned.

We also have right to demand having proper service in fines, fees and complaints. Let me know if I have to do something else.”

Til dette har Metro Service svaret:

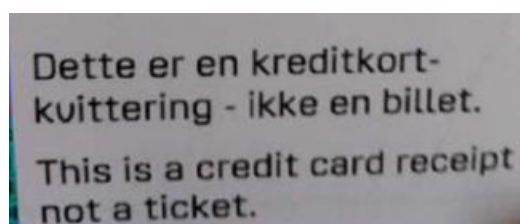
” There is no doubt, that the complainant did not present a valid ticket at the time om ticketing. He showed a credit card receipt.

Due to this the inspection fee was correctly issued.

Again, we must state that a paper ticket – bought in a ticket wending machine – is not personalized and can be handed over to a third person.

Subsequent proof of purchase in the form of a bank statement do not change this.

Furthermore, it was clearly stated from the paper the complainant took from the ticket wending machine, that this was a credit card receipt not a ticket:



When public transport is used, this is regulated by the rules that appear in the Joint National Travel Regulations, and we must again refer to sections 2.4., 2.6 and 2.7.1.

We have documented that the electronic inspection fee was issued February 11th, 2024, and for good measure we have done so again below.

```
<CPASStatusCode>1</CPASStatusCode>  
<FeeDate>2024-02-11T13:04:00.  
<Line>M1/M2</Line>  
  
<group />  
<CreateDate>2024-02-11T13:11:47.  
<CivilRegistrationNumber>72410536
```

In conclusion, we must refer to previous decisions made by the Appeal Board in comparable cases, where complainants could not present a valid travel document on request, but subsequently provided documentation in the form of, among other things, bank statements. These type of cases have been decided in favor of the respondent company – se the decisions [here](#).

We thus continue to maintain our claim.”

På ankenævnets vegne



Lone Bach Nielsen
Nævnensformand