

## AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

<b>Journalnummer:</b>	24-0299
<b>Klageren:</b>	XX UK
<b>Indklagede:</b>	Metroselskabet I/S v/Metro Service A/S
<b>CVR-nummer:</b>	21 26 38 34
<b>Klagen vedrører:</b>	Kontrolafgift på 750 kr. grundet manglende check ind på RejsekortAnonymt
<b>Parternes krav:</b>	Klageren ønsker, at ankenævnet annullerer kontrolafgiften, og gør gældende, at han regnede med, at det var en teknisk fejl, der gjorde, at han ikke kunne checke ind på sit Rejsekort, der havde en saldo på 64 kr. til en rejse, der ville koste 30 kr.  Indklagede fastholder kontrolafgiften
<b>Ankenævnets sammensætning:</b>	Nævnensformand, dommer Lone Bach Nielsen Rolf Høymann Olsen (2 stemmer) Helle Berg Johansen Dorte Lundqvist Bang

Ankenævnet for Bus, Tog og Metro har på sit møde den 4. december 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.

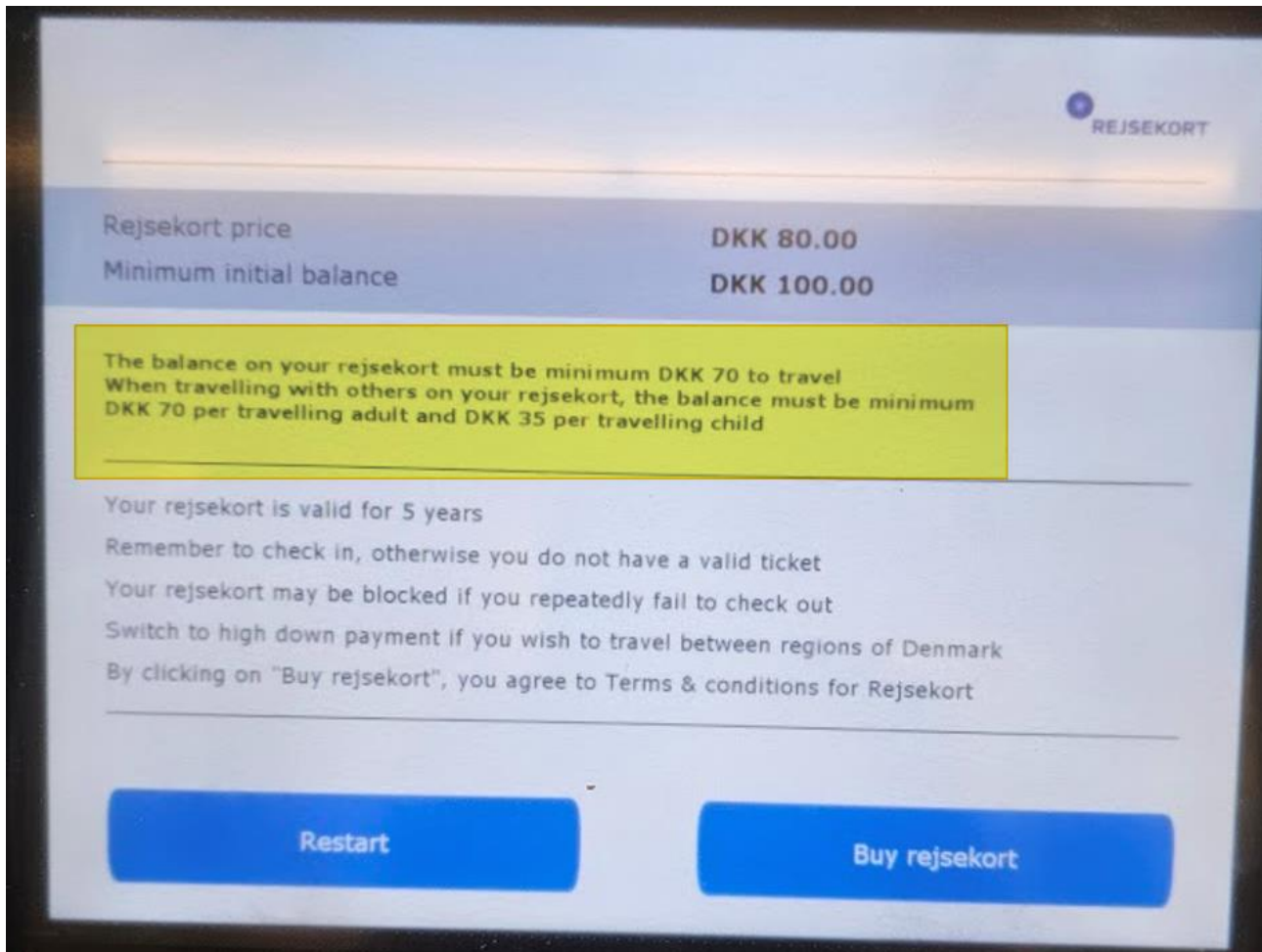
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Hver af parterne kan anlægge sag ved domstolene om de forhold, som klagen har vedrørt.

Klageren henvises til at søge yderligere oplysning om eventuel bistand i forbindelse med sagsanlæg fx på [www.domstol.dk](http://www.domstol.dk), [www.advokatnoeglen.dk](http://www.advokatnoeglen.dk) og /eller eget forsikringssselskab om eventuel forsikringsretshjælp.

**SAGENS OMSTÆNDIGHEDER:**

Klageren, der er engelsktalende, var turist i Danmark og havde ved ankomst den 20. juni 2024 købt et Rejsekort Anonymt i en automat samt tanket det op med 300 kr. Undervejs i købsflow'et blev det oplyst på engelsk, at der kræves en saldo på minimum 70 kr. for at kunne checke ind:



Aftenen inden klagerens hjemrejse den 22. juni 2024, fik han i forbindelse med check ud kl. 20:50 advarselslyden og besked på standen om, at saldoen på 64 kr. var lav, og at Rejsekortet skulle tankes op. Dette undlod klageren imidlertid.

#### Uddrag af rejsekorthistorikken:

22-06-2024 10:35:29	22-06-2024 10:51:39	01-06-2024	Check ind	Check ind	83,00	-70,00
22-06-2024 11:01:12	22-06-2024 11:26:46	01-06-2024	Check ud	Check ud	135,20	52,20
22-06-2024 12:21:06	22-06-2024 12:41:41	01-06-2024	Check ind	Check ind	65,20	-70,00
22-06-2024 12:37:20	22-06-2024 12:57:33	01-06-2024	Check ud	Check ud	117,40	52,20
22-06-2024 16:38:29	22-06-2024 16:46:37	01-06-2024	Check ind	Check ind	47,40	-70,00
22-06-2024 16:46:58	22-06-2024 17:01:56	01-06-2024	Check ud	Check ud	99,60	52,20
22-06-2024 17:02:20	22-06-2024 17:15:49	01-06-2024	Check ind	Check ind	29,60	-70,00
22-06-2024 17:10:59	22-06-2024 17:33:17	01-06-2024	Check ud	Check ud	99,60	70,00
22-06-2024 18:24:24	22-06-2024 18:48:20	01-06-2024	Check ind	Check ind	29,60	-70,00
22-06-2024 18:40:56	22-06-2024 18:48:47	01-06-2024	Check ud	Check ud	81,80	52,20
22-06-2024 20:42:22	22-06-2024 21:54:12	01-06-2024	Check ind	Check ind	11,80	-70,00
22-06-2024 20:50:18	22-06-2024 21:39:42	01-06-2024	Check ud	Check ud	64,00	52,20
23-06-2024 17:33:10	23-06-2024 17:55:16	01-06-2024	Kontrolmærke	Kontrol	0,00	0,00

Klageren skulle hjem til England den 23. juni 2024 og ville rejse med Metroen fra Nørrebro Runddel til Lufthavnen med skifte på Nørreport st. Han forsøgte forgæves at checke ind på en kortlæser på perronen på Nørrebro Runddel, hvorfor han regnede med, at der måtte være tale om en teknisk fejl, når der var tale om en saldo på 64 kr. til en rejse, der ville koste omkring 30 kr. Da han heller ikke kunne se nogen billetautomat på perronen, steg han ombord på Metroen uden billet, fordi han regnede med at kunne løse problemet med hjælp fra en kontrollør eller i lufthavnen.

Herefter skiftede han Metrolinje på Nørreport st., hvor han heller ikke købte en billet i en automat, og efter påstigning på Metroen blev han kontrolleret og pålagt en kontrolafgift på 750 kr. for manglende check ind.

Dette klagede han over til Metro Service, idet han skrev som gengivet ovenfor.

I tried to tap in at Norrebros Ruddel Street M3 for my final journey home to the airport from a short weekend.

The card refused to let me tap in saying balance was too low at I think 68 DDK but I understood the fare to only be around 30 DDK. I could not find a ticket machine on the platform, I was unaware at this point that -1 was ticket hall as I had been using the lift direct to -2 all weekend so I assumed the issue could be rectified onboard the train or at the airport/was a system error.

When a ticket inspector got on the train on the M2 line I presented myself to ask what I should do. He said it was black and white and I must be fined, I explained what had happened and he apologised but said he must fine me still but I should appeal and ask nicely explaining what went wrong.

You can see from my card I brought it at the airport and topped it up with 300DDK and checked in & out all weekend.

Is it possible please to consider the circumstances as the fine is very large and I was trying to pay the fare/tap in but couldn't.

Metro Service fastholdt kontrolafgiften, da klageren ved check ud dagen inden rejsen havde fået meddelelse om at tanke Rejsekortet op, og da det var oplyst i handelsbetingelserne, som kunden accepterer ved købet af kortet, at der kræves en minimumssaldo på 70 kr. på Rejsekort Anonymt for at kunne checke ind.

Herefter indbragte klageren sagen for ankenævnet, hvor han har tilføjet, at kontrolafgiften er alt for stor i forhold til at mangle 6 kr. på rejsekortsaldoen.

#### **ANKENÆVNETS BEGRUNDELSE FOR AFGØRELSEN:**

Klageren fik oplyst undervejs i købsflow'et og i handelsbetingelserne, at der kræves en saldo på minimum 70 kr. for at kunne checke ind på et Rejsekort Anonymt. På trods af at klageren ved check ud aftenen forinden havde fået advarselslyden og besked på standen om lav saldo, tanke han ikke Rejsekortet op inden rejsen den 23. juni 2024.

Kontrolafgiften for manglende gyldig rejsehjemmel blev dermed pålagt med rette.

Den omstændighed, at det manglende check ind skyldtes en manko på 6 kr., indebærer ikke, at der 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. 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.

## **PARTERNES ARGUMENTER OVER FOR ANKENÆVNET:**

### **Klageren anfører følgende:**

”I hope this message finds you well. I am writing to request your compassionate reconsideration of a fine issued to me for not having a valid check-in on my Rejsekort during my trip from Nørrebro Runddel to Copenhagen Airport.

As a tourist visiting Copenhagen for the weekend, I purchased a Rejsekort at the airport terminals and loaded it with 300 DKK for my travels. Throughout my visit, I diligently tapped in and out correctly for each journey, primarily using the lifts due to my mobility limitations; I am recovering from recent foot surgery that involved the implantation of several screws, and I am currently unemployed.

On my final trip to the airport, my Rejsekort displayed an error stating insufficient funds, despite having 64 DKK remaining for what I understood to be a 30 DKK journey. Confused and unable to find a ticket machine or assistance at the platform level, I assumed there was a system error. I hoped to resolve the issue either at the airport or with a ticket inspector on the train.

When I encountered a ticket inspector, I immediately and voluntarily approached him to explain my situation and sought guidance on how to rectify it. To my dismay, he informed me that the only recourse was to issue a fine of 750 DKK. As a visitor unfamiliar with the intricacies of the system, including the existence of -1 level where assistance might have been available, I found this experience very disheartening.

I am an honest individual and could have avoided the inspector as I noticed others doing so. However, I believed that transparency and common sense would prevail in assisting a tourist facing a confusing situation. Given that I had sufficient funds for my trip and that Rejsekort records should show my attempt to check in, I kindly ask for your understanding and request that the fine be cancelled or, at the very least, significantly reduced.

This situation has been particularly stressful, and I believe that a degree of discretion would have been warranted, considering the challenges I faced with my mobility and the unfamiliarity with your transport system. Thank you for your time and consideration. I am more than willing to provide any additional information or documentation that might support my case. Your understanding and compassion would be greatly appreciated during this difficult time.”

### **Indklagede anfører følgende:**

” In the specific case, the complainant was ticketed by a Metro steward June 26, 2024, at 17:34 between Nørreport station and Airport station. The complainant presented a travel card anonymous , which, however, had not been checked in. As the complainant had no other form of ticket, the steward issued an inspection fee 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.

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 amounts 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.

At all stations there are information boards and information stickers where you can read, in both Danish and English, that you must have a valid ticket before boarding the train:



Rejser med Metroen kræver gyldigt kort eller billet inden påstigning. Der findes Rejsekort- og billetautomater på alle stationer. Billetkontrol kan ske både under rejsen, ved udstigning og på stationen efter endt rejse. Har du ikke gyldigt kort eller billet udstedes kontrolafgift efter gældende regler.

Travelling on the Metro requires a valid ticket. Tickets are available from ticket vending machines at the stations. Ticket control may be performed during the journey, when leaving the train and at the station after the journey has ended. Passengers boarding a train without a valid ticket will be liable to pay a fare evasion ticket.



Also, at all metro stations and in all trains, there are at least 2 yellow call points. Every call point is a direct connection to the control room, where you get in touch with an employee 24-7 who is able to send a steward to help you, can guide you on how to buy a ticket in another way, or who can give permission to travel without a ticket to, for example, the next station and buy a ticket there.

In addition to the aforementioned information boards/stickers, the requirement for a valid ticket before boarding is also described in in the Joint National Travel Regulations, which can be read in their entirety at this link: [Joint-National-Travel-Regulations.ashx \(rejsekort.dk\)](https://www.rejsekort.dk) and where we draw particular attention to sections 2.4 and 2.7.1

#### 2.4. Use 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

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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.

The customer can extend the journey by purchasing more zones/a new single ticket for the ordinary travel document. The purchase must be made while the ordinary travel document is still valid. The rules for purchase and use of a supplementary single ticket/new single ticket adhere to the general rules for purchase of travel documents.

## 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.

The complainant has explained that he bought his anonymous travel card at the airport on arrival in Denmark and that he topped up DKK 300 on the card which he then used on his travels around Copenhagen.

The complainant also explains that he is an honest person and that he thought there must be a system error when he could not check in on the anonymous travel card when the balance read DKK 64 knowing that the last trip to the airport would cost approx. 30 DKK.

The complainant also claims that he has had an operation on his foot and that he could therefore not look for another way of buying a ticket, and that he is unemployed and cannot afford to pay the inspection fee.

From Rejsekort A/S we have received a history of the complainant's travels, see attached pdf file 'Travel history'.

The history confirms that the complainant bought his anonymous travel card from one of Metro's travel card machines at the airport and topped it up with DKK 300.

The transaction details of that purchase shows that the complainant chose 'English' as the language. See the clips below:

ID	Transakt.dato/kl.	Transakt. modtaget dato/kl.	Lokation	Udstyr / -nr.	Filnavn	Sekv.	Transakt.gruppe	Transakt.type
6466063632	20-06-2024 16:21:26	20-06-2024 16:30:12	Københavns Lufthavn	MET_Cph_RVM_102 - 47029	0470291P.CD6	1	Salgstransaktion	Salg af rejsekort

#### Transaktionsdetaljer

##### Salg af rejsekort

Kortnr.	308430 207 248 989 4
Kortpris	80
Korttest	False
Korttype	Anonymt
Kortudsteder	Rejsekort
Kundesprog	ENGLISH

20-06-2024 16:21:26	20-06-2024 16:30:12	01-06-2024	Rejsekort udstedt	Salg af rejsekort	308430 207 248 989 4	1	Københavns Lufthavn	MET_Cph_RVM_102 - 047029	0,00	0,00	80,00
20-06-2024 16:21:26	20-06-2024 16:30:12	01-06-2024	Rejsekort udstedt	Oprettelse af e-pung	308430 207 248 989 4	2	Københavns Lufthavn	MET_Cph_RVM_102 - 047029	0,00	0,00	0,00
20-06-2024 16:21:26	20-06-2024 16:30:12	01-06-2024	Rejsekort udstedt	Tank-op	308430 207 248 989 4	3	Københavns Lufthavn	MET_Cph_RVM_102 - 047029	300,00	300,00	300,00

When you buy an anonymous travel card from a travel card vending machine, you have to go through some information texts on the screen before you can complete the purchase.



This means that the complainant has been presented with the information below, which states in bold text that the balance must be at least DKK 70 in order to be able to travel, before he could top up the card with the desired amount and then complete the purchase.

The same information is also available on Rejsekort.dk - where you can select 'English'. See below:  
<https://www.rejsekort.dk/Hjaelp/Saadan-rejser-du>

### The customer and card type will determine the price ^

The prepayment is based on your customer type and your type of Rejsekort.

With a Rejsekort Personal, you prepay 25 kr. for an "Adult" customer type, whereas a "Child" will prepay 12.50 kr.

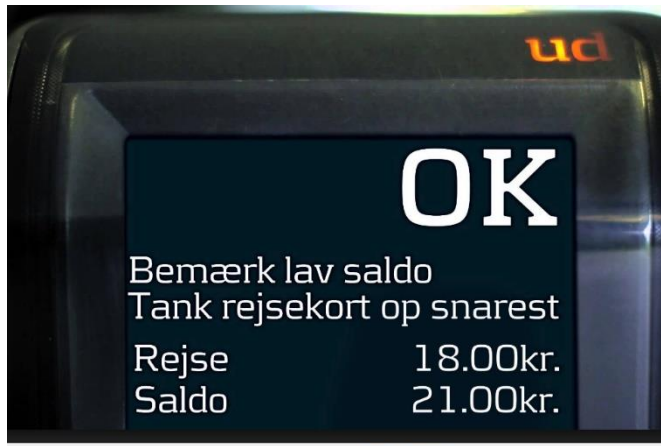
**With a Rejsekort Anonymous, an "Adult" customer type will prepay 70 kr. for a regional journey and 600 kr. for a journey between regions, whereas a "Child" will prepay 35 kr. on a regional journey and 300 kr. for a journey between regions. You have to personally upgrade your Rejsekort Anonymous at a Rejsekort Vendingmachine or by the help of a Bus Driver.**

Travelling between the regions means:

- Travelling across Storebælt and Lillebælt
- Travelling between Sydtrafik, Midttrafik and Nordjyllands Trafikselskabs regions.

In addition to the fact that when you buy an anonymous travel card, you are made aware that the balance must be at least DKK 70 in order to be able to check in, you are also made aware of this when you check out after a trip and the balance falls below the minimum limit, because the check-out validator provides that information on the screen at the same time as the validator emits an acoustic signal to alert the passenger that an action is necessary.

We do not have a photo example of such a 'low balance warning' in English, but it looks like the one below - only with English text of course.



The evening before the complainant received his inspection fee, he ended a journey by checking out at Nørrebro's Runddel at 20:50:18 (see below).

On that occasion, the balance on the card fell to DKK 64, which triggered the above information and sound on the check-out validator.

22-06-2024 20:50:18	22-06-2024 21:39:42	01-06-2024	Check ud	Check ud	308430 207 248 989 4	29	11	Nørrebros Runddel St.	VAL_67191 - 139B97	EasyTrip	64,00
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When the balance on the travel card has become too low, you cannot check in until you have topped up the card.

On the check-in validator, you get a text message on the display at the same time as a negative acoustic signal.

In Danish, the text looks like the one below, if the travel card is set to 'English', the information will be in English.



In his inquiries, the complainant himself explains that when he tried to check in his travel card on 26 June, he was told that the balance was too low, but that he simply assumed that it must be a mistake and that, because he had undergone surgery in his foot and because he could not see a ticket machine decided to board the train without a valid ticket without making any attempt to obtain a ticket in any other way or to contact Metro via one of the yellow call points found in all stations and trains.

The complainant started his journey towards the airport from Nørrebro's Roundabout with the M3 line. To get to the airport, you must change to the M2 line, which can only be done at either Frederiksberg station or Kongens Nytorv station.

The complainant received the inspection fee at 17:34:46 in train number 02. At that time, train number 02 had left Nørreport station but not yet reached Kongens Nytorv station (see the clip from electronic inspection fee and the train log below), which means that the complainant changed from the M3 line to the M2 line at Frederiksberg station.

```
<FeeDate>2024-06-23T17:34:46.8670000</FeeDate>
<Line>M1/M2</Line>
<StationFrom>Nørreport</StationFrom>
<StationTo>Lufthavnen</StationTo>
```

Time	VEA	ORE2	BC_2	KHS2	UNI2	ISB2	KHC2	KGN2	KN_2	FOR2	FB_2	SOT2	LIT2	FL_2	VAN	FL_1	LIT1	SOT1	FB_1	FOR1	KN_1	KGN1	KHC1	
23-jun-24 17:36																								
23-jun-24 17:35																							2	
23-jun-24 17:34																								
23-jun-24 17:33																					2			
23-jun-24 17:32																								
23-jun-24 17:31																				2				
23-jun-24 17:30																								
23-jun-24 17:29																								

```
<TrainNumber>2</TrainNumber>
```

On the Frederiksberg station M2 line, both the travel card machine and the ticket machine are located in the middle of the platform and the complainant could have used one of the machines to purchase a ticket instead of continuing his journey without.

As the complainant did not have a valid ticket, the inspection fee is imposed rightly and in accordance with current regulations.

The subsequent case processing and decision are also correct as it is undeniable that the complainant has received a service he has not paid for.

Although we can sympathize with the complainant's explanations about being in a difficult place in life, the requirement for a valid travel permit applies to everyone, regardless of whether you are a resident or tourist, child, student or senior citizen and regardless of income and social habitus, and we therefore cannot grant the complainant's request for neither cancellation nor reduction of the inspection fee, but maintains the full demand for payment of DKK 750.

In conclusion, we draw attention to other cases of low balance on rejsekort where the Board of Appeal has made decisions in favor of the summoned company, for example 2021-0147, 2021-0011, 23-0244, 23-0295 and 23-0338."

På ankenævnets vegne



Lone Bach Nielsen  
Nævnetsformand