

AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

Journalnummer: 24-0312

Klageren: XX
Estland

Indklagede: Metroselskabet I/S v/Metro Service A/S
CVR-nummer: 21 26 38 34

Klagen vedrører: Kontrolafgift på 750 kr. grundet rejse på en billet, der var udløbet et par timer inden rejsen

Parternes krav: Klageren ønsker, at ankenævnet annullerer kontrolafgiften, og gør gældende, at hun ikke blev informeret undervejs i købsflow'et om, at biletten ville udløbe, selv om man endnu ikke havde rejst på den

Indklagede fastholder kontrolafgiften

Ankenævnets sammensætning: Nævnsformand, dommer Lone Bach Nielsen
Rolf Höymann 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.

- 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 forsikringsselskab om eventuel forsikringsretshjælp.

SAGENS OMSTÅNDIGHEDER:

Klageren var på besøg i København, hvor hun skulle rejse med Metroen den 15. juni 2024. For at sikre sig at være i god tid, købte hun allerede billet om morgenen kl. 08:39, hvor hun fik udskrevet en billet, hvorpå der stod udløb kl. 10:09.



Senere samme formiddag rejste klageren med Metroen, hvor der var kontrol af hendes rejsehjemmel. Da billettens gyldighedstidspunkt var overskredet, idet klokken var 12:41, blev hun pålagt en kontrolafgift på 750 kr.

Den elektroniske kontrolafgift, som stewarden indtastede til Metro Service.

```
<Country>Estland </Country>
<CPRStatusCode/>
<FeeDate>2024-06-15T12:41:04.2170000</FeeDate>
<Line>M1/M2</Line>
<StationFrom>Christianshavn</StationFrom>
<StationTo>Lufthavnen</StationTo>
<Adult>true</Adult>
<Child>false</Child>
<NumberOfBikes>0</NumberOfBikes>
<NumberOfDogs>0</NumberOfDogs>
<Cause>Udløbet</Cause>
<UnequalZones>false</UnequalZones>
<PaidCash>false</PaidCash>
<Amount>750</Amount>
<Cancelled>false</Cancelled>
<ChangedComment/>
<PaymentReceivedByUser/>
<Note/>
<TicketType>Papirbillet</TicketType>
```

Klageren anmodede efterfølgende Metro Service om at annullere kontrolafgiften, fordi det var hennes første besøg i København i 8 år, og ved købet havde hun valget mellem gyldighed "now" eller "later", og hun valgte "later". Hun havde betalt korrekt pris for rejsen og havde ikke forsøgt at snyde. Hun købte billetten allerede i lufthavnen for at være sikker på at have en billet til retturejsen inde fra centrum. Hun kørte i taxa til centrum fra lufthavnen og brugte ikke billetten til at rejse på.

Metro Service fastholdt kontrolafgiften, da klageren både undervejs i købsflow'et og på selve billetten havde kunnet læse, hvornår den udløb:

"You have been issued an inspection fee in the metro, because you presented an expired ticket when subject to a ticket inspection.

I completely understand your request, because it is just an unfortunate situation, but regrettably, we find no basis for a reduction or a cancellation of your inspection fee

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.

The ticket's validity period is printed on the front of the ticket in both Danish and English. A ticket is valid for an unlimited number of trips within the validity period, and they are valid from the time of purchase. I can inform you that this information is also shown on the ticket screen during purchase.

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 that the ticket has expired.

You are always more than welcome to contact authorized personnel on the metro station, or use the yellow call points on all stations to contact our control room, if you require assistance or directions. We are staffed 24 hours a day, and are able to assist you over the call point, or send a steward to the station if required.

I understand that it was just an unfortunate mistake that you had not noticed the expiry time on your ticket. I do not doubt that you had every intention of traveling with a valid travel document. 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. It is solely a matter of the necessary travel document not being acquired in accordance with the travel rules before boarding.

We do not make distinctions between experienced commuters, first time travelers, tourists or residents. Doing so would be unethical and unfair."

Herefter indbragte klageren sagen for ankenævnet, hvor Metro Service har gengivet købsflow'et fra billetautomaten, som vist nedenfor under parternes krav og begrundelser.

ANKENÆVNETS BEGRUNDELSE FOR AFGØRELSEN:

Således som sagen foreligger oplyst med købsflow'et fra automaten og selve billetten, hvoraf det tydeligt fremgik på engelsk, at billetten var gyldig fra kl. 08:39 til kl. 10:09, finder ankenævnet, at klageren ikke var berettiget til at kunne gå ud fra, at hun kunne benytte billetten til en rejse, der fandt sted omkring kl. 12:41.

Ankenævnet har ved afgørelsen videre lagt vægt på, at der på alle Metrostationer er ophængt boards, hvorpå det er oplyst til passagererne på dansk og engelsk, blandt andet om enkeltbillets gyldigheds længde (ankenævnets overstregning med gult):

rejse med Movias busser, lokalbanetog og metroen. Omstigningsområderne kan du se på www.dinoffentligetransport.dk.

Single ticket and Mobile multiple-ride ticket

Total zones / validity period	Total zones / validity period
2 1 hour 15 min	6 2 hours 15 min
3 1 hour 30 min	7 2 hours 30 min
4 1 hour 45 min	8 2 hours 45 min
5 2 hours	

All tickets are valid for travel on harbour buses, buses, trains and the Metro within the ticket's validity period.

Endelig har ankenævnet lagt vægt på, at klageren undervejs i købet kunne have trykket på "i"-knappen og der have fået den samme information om gyldighed. Metro Service har i sit svar til ankenævnet vist, hvorledes beskeden til kunden ser ud.

Som følge af det anførte, og da det ikke er en betingelse for at pålægge en kontrolafgift, at passageren har handlet bevidst imod rejsereglerne, og som følge af den oplagte risiko for omgåelse af betalingsforpligtelsen, hvis det accepteres, at kunderne kan rejse på billetter, der er udløbet, finder ankenævnet, at kontrolafgiften til klageren blev pålagt med rette, og at der ikke har foreligget sådanne særlige omstændigheder, at kontrolafgiften skal frafaldes.

RETSGRUNDLAG:

Ifølge § 2, stk. 1, jf. § 3 nr. 3 i lovbekendtgørelse nr. 686 af 27. maj 2015 om lov om jernbaner, gælder loven også for metroen. Ifølge § 2 i lov nr. 206 af 5. marts 2019 om ændring af lov om trafikselskaber 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:

" As I was advised, I many time turned to all authorities to challenge the fine.

1. I do not agree with the fine issued, since the travel was actually paid for. I bought a ticket at the airport for the return trip because I didn't know whether there would be ticket machines in the center and I didn't want to waste my nerves and time looking for them. I got to the center by taxi.

2. When buying a ticket from a machine at the airport, I did not select the option "buy a train ticket now", but chose "buy a ticket later"

3. Nowhere was I given information that a ticket purchased and not used is valid only for a certain time. For example, I didn't see such information in the machine. And a person who encounters this for the first time simply has no idea.

I kindly ask you to cancel the fine, since in fact my ticket was paid for. And a fine of 100 is very large for an actually paid trip."

Indklagede anfører følgende:

" The complainant was issued an inspection fee 15.June 2024 at 12:41 in connection with ticketing after the metro has left Christianshavn station.

At the ticketing, the complainant presented an expired 3 zone ticket bought 15. June 2024 and valid from 08:39 to 10:09, which clearly is shown on the ticket.



First, we must state that the metro runs, like all 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 ticket or card cannot be presented on request, it must be accepted to pay an inspection fee, which for an adult is 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.

We must refer to the [Joint National Travel Regulations](#) where the following rules - among others - are stated:

1.1. Scope

The Joint National Travel Regulations apply to travel with the aforementioned companies in Denmark.

This means travel by bus, harbour bus, metro, local train and light rail, and travel by GoCollectiveRail, DSB and Nordjyske Jernbaner (hereinafter referred to as bus, train, metro and light rail).

... and

The travel document is the customer's proof of the right to be transported. The Joint National Travel Regulations, together with a valid travel document, form the agreement between the customer and the chosen company. However, certain types of travel document may be subject to special rules, which also form part of the agreement. This will be stated in connection with purchase.

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 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.

2.7.1. 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.

At alle stickers placed on the platform screen doors in the metro it is stated "Make sure you have a valid ticket" (see picture below).



... and on all metro stations information's and rules are to be found at information board placed several places at each station.

Among others following information can be found:

On the information board Rejseinformation / Travel information it is stated:

On the information board Velkommen i Metroen / Welcome to the Metro it is stated:

Velkommen i Metroen
Welcome to the Metro

For at give den bedst mulige rejseoplevelse for alle kunder i Metroen, bedes du overholde følgende ordensregler.

To provide the best possible travel experience for all passengers, you are required to abide to the following regulations.



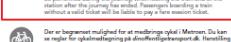
Du kan benytte de gule kontaktpunkter til generelle henvendelser ved akut fare skal du trykke på den røde knap, ALARM.

Inquiries to the Metro control room may be made from the yellow intercoms by pressing the green button, INFO. In case of emergency, press the red button, ALARM.



Metrostasjonen og metrotog er kommersieltvært af højen til de rejsende relativt og tryggt.

Metro stations and trains are commercially served by the passengers relatively and safely.



Bugser med Metroen kører gyldigt kort eller billet inden påstigning. Du kan få en gratis rejsekort tilbage hvis du ikke har købt et billet inden påstigningen. Det er ikke tilladt at køre med Metroen uden et gyldigt kort eller billet.

Der er bugseret mulighed for at medbringe sykler i Metrosen. Du kan få en gratis rejsekort tilbage hvis du ikke har købt et billet inden påstigningen.

Please find the rules for bringing bicycles with you on the train at [publictransport.dk](#). Parking of bicycles outside designated parking places is prohibited.

Hunde kan medtages, hvis de er i leine og ikke er til gene for andre passagerer. Der må dog kun medtages en hund pr. person. Hunde kan ikke medtages i tog. Hunde kan ikke medtages i tog, hvis de ikke er i leine og ikke er til gene for andre passagerer.

Dogs are allowed on trains, provided they are kept on a lead and do not cause inconvenience to other passengers. Dogs are not allowed in trains.

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Opnåelse med maskine er underholdning må kun finde sted med skriftlig tilladelse fra kundeservice.

Music performance and entertainment is not permitted without prior written permission from customer service.



Du kan benytte de gule kontaktpunkter til generelle henvendelser til Metroens kontrolrum ved at trykke på den grønne knap, INFO. Ved akut fare skal du trykke på den røde knap, ALARM.

Inquiries to the Metro control room may be made from the yellow intercoms by pressing the green button, INFO. In case of emergency, press the red button, ALARM.



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.



Læs mere om rejsegeregler på DOTs hjemmeside:
[dinoffentligetransport.dk](#)

Read more about travel regulations on the website:
[publictransport.dk](#)

DOT Kundeservice

T: 7015 7000 (vælg metro)

W: [dinoffentligetransport.dk](#)

DOT Customer Service

T: 7015 7000 (choose Metro)

W: [publictransport.dk](#)

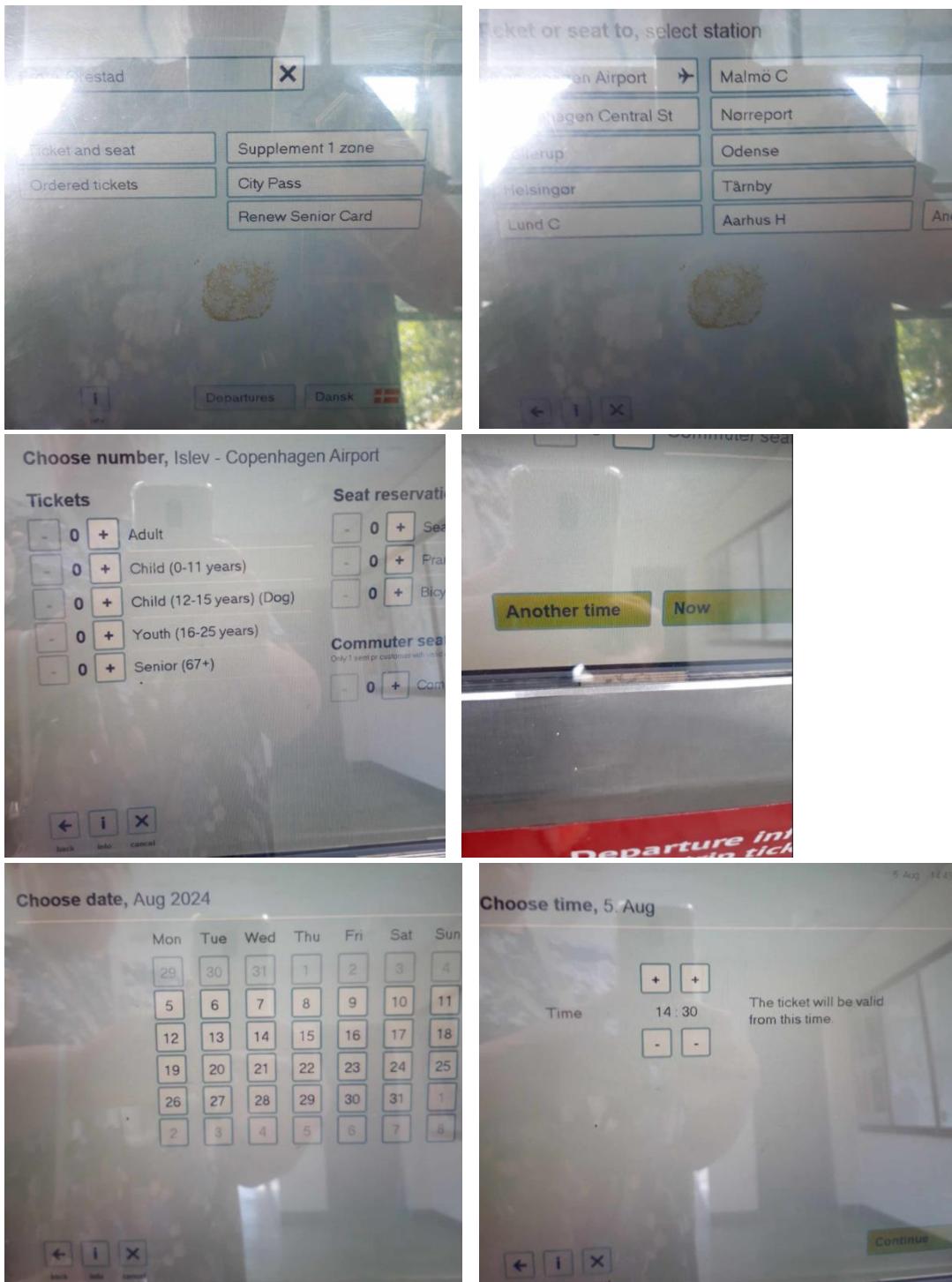
As written on the information boards yellow call points are placed at all stations and in all trains and can always be used to get in contact with an operator in our control room which are manned 24/7.

The operator can always advise a customer what to do or where to get help in case the customer have questions or needs.

From the ticket presented by the complainant we can see that this has been bought in a DSB ticket machine.

The purchase flow is here:

- 1) ticket and/or supplement is chosen
- 2) then the customer is presented for the surrounding and most common stations
- 3) type of ticket for the chosen from and to stations
- 4) when ticket type has been chosen a new choice appears in the bottom "Another time" or "Now" - the complainant writes that she had chosen later (we assume it must be "Another time")
- 5) after "Another time" is chosen, a date must be chosen
- 6) and when the date is chosen the next step is to choose from what time the ticket should be valid



Please notice that on all pictures there are choices in the bottom: "Back" – "Info" – "Cancel"
 When pressed on the i (Info) Ticket information is shown among other information about Zone ticket (se below):

Ticket information

Zone tickets

For travel in Zealand, common fares and travel regulations apply to Zealand transport companies.

A zone ticket is valid for between 2 and 8 zones.

A zone ticket allows you to change between bus, train and metro in the zones and time period for which the ticket is valid. The period of validity will appear on your ticket. Boarding and transfer must take place within the valid time period. It is the scheduled time of departure of the train/bus that determines the validity of the ticket.

The ticket may be refunded up to the day before departure.

Zones and valid time periods

Zones	Valid time period
2	1:15
3	1:30
4	1:45
5	2
6	2:15
7	2:30
8	2:45

Here it is stated that a 3-zone ticket is valid 1 hour and 30 minutes after issuing or the time chosen as start of valid (see picture 6).

We deeply regret the quality of the pictures which we nevertheless assume, document that the information has been available.

It is of course a very unfortunate situation the complainant have found herself in but as we want to treat all passengers equally, we do not take into consideration what might have been the cause to the lack of a valid ticket or whether the passenger has acted in good or bad faith, we only relates to the fact that the passenger themselves – before boarding - are responsible for having a valid ticket which can be presented at any time on the journey.

Had the customer herself checked the ticket it would have been clear, that the ticket she had in hand was valid on 15 June from 08:39 to 10:09.

We find that the control fees in this specific case have been imposed completely correctly in accordance with the applicable rules and there are no special circumstances that could lead to cancellation of the same, and we therefore believe that the case handler's decision in the first instance was also correct.

Based on the above we therefore maintain our claim on the full amount of 750 DKK."

Hertil har klageren gjort gældende:

" I have read the response and the explanations provided are not clear enough for a person using services for the first time.

Throughout Europe, when you buy a ticket at the ticket office, it is valid for one day or longer. I bought a ticket at the airport ticket office for the return trip, because I had very limited time and was afraid that

there was a possibility that I would not find a ticket office to buy a ticket upon return, as happened in France or, for example, Germany. I went to the city by taxi, and back by train.

On the way back, when I went to the station, I wanted to validate the ticket, but I could not and the locals said that I did not need to do this, that this machine was for other cards.

Thus, having bought a ticket in advance, I wanted to protect myself and, of course save time.

Please note that my ticket was paid for, which means the ticket was purchased and I was traveling with a pre-purchased ticket, and not without a ticket. I think I got an unjustified fine. I have never seen anywhere that a purchased ticket is no longer valid if it is not used at the specified time and the money is simply lost. The ticket for travel was purchased and I did not violate the rules in any way."

Til dette har Metro Service svaret:

"

We fully understand that it is an unfortunate situation the complainant has found herself in, but it must be clarified that it is clear from the zone ticket that this was valid for travel unlimited in Greater Copenhagen area on June 15th, 2024, from 08:39 to 10:09.

In a case where a tourist is going to Denmark (Copenhagen) and is uncertain about the ticket system it is possible to seek and find information regarding public transport in advance.

On the webpage [Public Transport](#), it is among others possible to find information regarding [tickets and card](#) – and on the webpage [Your Public Transport](#) information regarding [tickets and cards](#) can also be found.

Again, we must refer to that the metro runs like all other public transport in the Greater Copenhagen area, 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.

As a valid ticket or card could not be presented an inspection fee was issued according to the [Joint National Travel Regulations](#).

Based on our mail of August 6th, 2024, and the above we maintain our claim of DKK 750."

På ankenævnets vegne



Lone Bach Nielsen
Nævnsformand