

AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

Journalnummer: 24-0322

Klageren: XX
9220 Aalborg Øst

Indklagede: Nordjyllands Trafikselskab (NT)
CVR-nummer: 30 01 59 40

Klagen vedrører: Kontrolafgift på 1.000 kr. grundet rejse alene på en anden persons Rejsekort Personligt

Parternes krav: Klageren ønsker, at ankenævnet annullerer kontrolafgiften, og gør gældende, at chaufføren gav hende tilladelse til at rejse på det pågældende Rejsekort, samt at hun i kontrolsituationen ikke fik at vide, at hun blev pålagt en kontrolafgift og ikke blev bedt om at identificere sig

Indklagede fastholder kontrolafgiften

Ankenævnets sammensætning: 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:

Nordjyllands Trafikselskab (NT) er berettiget til at opretholde kravet om betaling af kontrolafgiften på 1.000 kr.

Beløbet skal betales til Nordjyllands Trafikselskab (NT), 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:

Om aftenen den 11. maj 2024 skulle klageren, som er udlænding og ikke-dansktalende, rejse med NT's buslinje 11 sammen med sin mand, som heller ikke taler dansk. Hendes mand havde både et Rejsekort Pendlerkort (grønt kort) og et Rejsekort Personligt (blåt kort), hvorimod hun selv ikke havde noget Rejsekort.

Klageren havde tidligere benyttet sin mands Rejsekort Pendlerkort, da parret havde været af den opfattelse, at alle i familien kunne benytte dette kort, men i forbindelse med mandens korrespondance med NT omkring en kontrolafgift udstedt til ham, var han af NT blevet oplyst om, at hans hustru ikke måtte rejse på hans personlige Rejsekort, og at hun kunne risikere at få en kontrolafgift, hvis hun gjorde det.

Klageren har oplyst, at de den pågældende aften ved påstigning spurgte buschaufføren og fik at vide, at hun godt kunne rejse på sin mands Rejsekort Personligt, når blot hendes mand var med på rejsen, og derfor checkede manden hende ind på dette Rejsekort. Da manden selv havde sit Rejsekort Pendlerkort med en gyldig periode, checkede han imidlertid ikke med ind på sit Rejsekort Personligt, som det er krævet i henhold til de Fælles landsdækkende rejseregler for at medtage andre rejsende på et Rejsekort Personligt.

Ved en efterfølgende kontrol ombord på bussen, kunne kontrolløren således konstatere, at klageren i strid med rejsereglerne rejste alene på en anden persons Rejsekort Personligt. Kontrolløren udstedte imidlertid ikke en kontrolafgift i selve kontrolsituationen, idet klageren efter det oplyste ikke ville afgive oplysninger om sin identitet. Kontrolløren har forklaret, at han sagde til klagerens mand, at han ville udstede en kontrolafgift, når han var tilbage på kontoret og havde undersøgt, om der havde været lignende tilfælde, hvor hun havde rejst på mandens personlige Rejsekort.

Rejsekorthistorik for den pågældende rejse:

Aktivitet	Type	Dato / Tid	Sted
1483	Check ind	11-05-2024 20:52:48	Nytorv (Østeraagade / Aalborg)
1484	Check ind	11-05-2024 20:57:02	Aalborg St.
1485	Check ud	11-05-2024 20:57:15	Aalborg St.
1486	Check ind	11-05-2024 20:59:07	Aalborg St.
1486	Kontrolmærke	11-05-2024 21:00:13	Aalborg St.
1487	Check ud	11-05-2024 21:17:58	Zoneskifte 1/2
Normalpris			
Betal for : Afstand		1 x Voksen	21,90
		1 zone	

Rabat		
Mængde	Rabattæller : Vest for Storebælt, Trin 2	
	Pris før rabat : 17,52	-1,75
Kl.	20:52	-4,38
Total rabat		-6,13
Total	Alle priser er i kr.	15,77

På grund af afrunding kan der være en forskel på 1 øre mellem den samlede pris og summen af mellemregning priserne

Takstsæt	Nordjylland	Rejsens længde	1 zone
Betalingsmåde	E-pung	Ændring af rejse	Ingen
Forudbetaling	25,00	Serviceniveau	Standard
Forudbetalingsniveau	Lavt - rejser mellem landsdele tilladt	Fjerneste punkt på rejse	Zoneskifte 1/2
Rabattæller i brug	Vest for Storebælt, Trin : 2	Passager(er)	1 x Voksen
Rabatpoint optjent	10	Kontrol	Ja

Da kontrolløren var retur på kontoret, udstedte han en manuel kontrolafgift på 1.000 kr. til klageren, idet han fandt frem til klagerens personlige informationer gennem opslag af hendes mands CPR-nummer i CPR-registreret, da hendes mands CPR-nummer kunne fremsøges i Rejsekortsystemet ud fra Rejsekortnummeret:

 John F. Kennedys Plads 17, 3. sal,
Postboks 1359, 5100 Ålborg
Nordjyllands Trafiksekskab.dk

Kontrolafgift

Kopial kontrolafgift

Beløb kr.: 1000,-

Dato: 11.5.24 Kl. 21:05 Rute/Linje: 11 Zone nr.: 1

Navn: [Redacted]
 Adresse: [Redacted]
 Postnummer: 9220 St. Alb. Ø
 Cpr. nr.: [Redacted] Kontnr.: [Redacted]

Legitimationens art: Sygesikringsbevis Inger Studiekort Kørekort Andre

Læge receptjournal Adm. dokumentation Rejser, uanset støj Wier 3. parts kort
 Rejseulydighed Rejseulydighed Diverse, bl.a. fodskening Aps/Wep Cykelhund

Passagerens underskrift: [Redacted] Afgift nr.: [Redacted] Intoner nr.: [Redacted]

Faktura fremsendes

På baggrund af den manuelt udstedte kontrolafgift fremsendte NT følgende faktura til klageren:

9220 Aalborg Øst

Faktura

Fakturanummer:
Debitornr.:
Deres reference:
Vores reference:
GLN-nummer:

Bogføringsdato
11. maj 2024

Bilagsdato
15. maj 2024

Forfaldsdato
29. maj 2024

Betalingsbetingelser
14 dage netto

Nummer	Beskrivelse	Antal	Enhed	Enhedspris ekskl. moms	Moms pct.	Linjebeløb ekskl. moms
	<p>Manuelle Kontrolafgifter Bus</p> <p>En eventuel indsigelse skal være NT i hænde, senest på fakturaens forfaldsdatoen. Indsigelsen skal sendes via www.NTrejse.dk -> Kundeservice -> Rīs og Ros -> Bus og Tog -> Kontrolafgifter.</p> <p>Kontrolafgiften opkræves i henhold til Bekendtgørelse nr. 323 af 20. marts 2015 af lov om trafikskaber § 29, stk 1 og de i medfør heraf fastsatte fælles landsdækkende rejseregler.</p> <p>Rute 11 Zone 1 Dato for udstedelse af kontrolafgift 11-05-2024 Kontrolafgift udstedt tid 21:05</p>	1	styk	1.000,00	0	1.000,00
I alt KR ekskl. moms						1.000,00
Momsbeløb						0,00
I alt KR inkl. moms						1.000,00

Den 28. maj 2024 skrev klageren følgende til NT:

"Today I just checked my mailbox and I received this control fee of 1000 DKK, but I do not know why I received it.

The first thing is, where did you get my address? I have a protected one, so where do you get my address? During my travels, I never received any control fee slips, and no one inquired about my identification for the control fee. So my question is, where did you get my address? This is a clear violation of personal privacy as per the law of Denmark.

The second thing is that I always travel with validated tickets and never travel without proper tickets. As I saw this control fee related to below travel 18/05/24 21:01 Line : 11 Jyllandsgade (Aalborg Kommune) 21:16 Line : 11 Zoneskifte But that time I traveled again with a valid ticket and my husband bought a ticket with his card from the bus

driver and the bus driver allowed me to buy this ticket but he said that you can't travel alone with this ticket without your husband. So we did that as per the bus driver's instructions, What is wrong with this because on the bus the driver is a control inspector, and he allowed us. "

Herudover henviste klageren til, at de havde en verserende sag i ankenævnet vedrørende en tidligere udstedt kontrolafgift af den samme kontrollør, og at hun ønskede at klage over kontrolløren, som hun mente var "efter" dem.

NT besvarede ikke klagerens henvendelse, men sendte en rykkerskrivelse til hende den 11. juni 2024 uden dog at pålægge skrivelse et rykkergebyr:

Rykker

Rykkernr. [REDACTED]
 Debitornr. [REDACTED]
 GLN-nummer

Bogføringsdato 11-06-24
 Bilagsdato 11-06-24
 Forfaldsdato 21-06-24

Side 1

Ved gennemgang af vores bogholderi kan vi konstatere, at du har et forfaldent udestående.

Bilagsdato	Bilagstype	Bilagsnr.	Forfaldsdato	Oprindeligt beløb	Restbeløb
15-05-24	Faktura	[REDACTED]	29-05-24	1.000,00	1.000,00
				I alt DKK	1.000,00

Herover vises en oversigt over beløb, som er forfalden til betaling. Vi kan på nuværende tidspunkt ikke se, at beløbet er betalt.
 Vi skal derfor anmode om, at forholdet bringes i orden snarest og inden 10 dage fra rykkerdato.
 Henvendelse vedr. denne rykker kan rettes til NT's bogholderi
 tlf: 99 34 11 44 eller e-mail: NTFinans@NTmail.dk.

Samme dag, den 11. juni 2024, rykkede klageren NT for svar på sin tidligere henvendelse:

"Dear NT,
 I am still waiting for a response from your side about my query, and today I received the file slip again. Please see the attachment and my email below for your reference."

Den 12. juni 2024 svarede NT følgende:

"Our inspectors get your address from the CPR register, which is not a violation of the law. The inspector has stated that your husband gave your CPR number when you was

asked. The reason why you get a control fee is that you have travelled on your husband's Rejsekort.

Both Rejsekort [nummer udeladt] (Rejsekort personal Commuter Pass) and [nummer udeladt] (Rejsekort personal), belong to your husband [navn udeladt].

According to the current rules for the use of a Rejsekort, you are not allowed to use another person's Rejsekort.

On case no. NT-[nummer udeladt], your husband states that you have checked in on his personal commuter card on the date that case no. NT-[nummer udeladt] concerns. I can't see which card you have checked in on this trip, but no matter which of your husband's two travel cards it is, it is not allowed.

The reason for this is, that on a commuter pass you travel at a discounted price, and that's why you must not share the product. The same applies to a personal Rejsekort. On the personal Rejsekort, you earn the largest discount compared to the other card types. The more you travel, the cheaper the trips become. If the card is shared with others, you will get the larger discount faster.

You can read more in Kortbestemmelser for Rejsekort Personligt, Rejsekort Flex og Rejsekort Anonymt, section 4.5 here. afsnit 4.5 [here](#).

On case no. NT-[nummer udeladt], your husband was made aware several times that you are not allowed to use his Rejsekort and that you could risk getting a control fee.

We maintain the control fee"

Den 13. juni 2024 svarede klageren:

"Your and your inspector statement is completely unacceptable and wrong, Inspector was liar. I was there and no one ask me or us about identification or CPR number and no-one gave us fine ticket. So in that case please confirm it from driver and recording of that bus. I think he and she not well being or personal with us, I don't know why and what their problem is. May be they don't like and want us in the bus.

Please investigate properly first."

Og lidt senere tilføjede hun, som tidligere anført, at hun ikke var blevet bedt om at identificere sig, og ikke havde givet sit CPR-nummer, at buschaufføren havde givet hende tilladelse til at rejse på sin mands Rejsekort Personligt, at hendes mand også var blevet pålagt en forkert kontrolafgift, at og kontrolløren var forudindtaget og behandlede dem inhumant, og hun bad derfor NT om at undersøge sagen grundigt.

NT fastholdt senere samme dag kontrolafgiften og anførte:

"The control fee is maintained

As the control fee is not entered into the electronic system, but written manually, no receipt has been given.

If you want to travel on your husband's Rejsekort, you must be checked in as an extra person. This means that your husband travels at a discounted price corresponding to discount level 2, where you, who are checked in extra, travel at discount level 0, and therefore pay more.

Instead, you choose to check in on the Rejsekort without your husband being checked in, and therefore get the discount corresponding to discount level 2, which you are not entitled to.

As I have already explained, that your husband has been informed about rouls regarding travelling on someone else's personal Rejsekort, which you both have chosen to ignore. (case no. NT-[nummer udeladt])

We have nothing further to add to the matter.

If you wish to appeal the decision, you will find the appeal instructions in the previous email."

Umiddelbart herefter skrev klageren igen til NT og anførte samme argumenter som tidligere. NT besvarede ikke denne henvendelse.

Den 1. juli 2024 skrev klageren på ny til NT og anførte:

" I am writing to follow up on my previous email regarding the fine I received, which I firmly believe was issued incorrectly. Your recent correspondence has left me with further concerns and confusion that I need to address urgently.

1. **Manual Entry of Control Fee:** It was mentioned that the control fee was entered manually and no receipt was given. According to the law and regulations, a receipt must be provided for any fines issued on the bus for traveling without a valid ticket. Why was this protocol not followed?
2. **Incorrect Handling of CPR Information:** You previously mentioned that the inspector obtained my CPR number from my husband, which is incorrect. No identification or CPR number was requested from us at the time, nor were we issued any fine tickets on the bus. This can be verified through camera footage or video recordings from the bus. I request that you provide me with this proof to substantiate your claims.
3. **Misguidance by the Bus Driver:** The bus driver allowed us to buy tickets using my husband's blue card pop-up money but informed us that I could not travel alone on this card. If the driver's guidance was incorrect, it reflects a systemic issue rather than a fault on our part. This interaction should also be verifiable through the bus's camera footage, and I request access to this proof as well.
4. **Inspector and Customer Service Overlap:** If the inspector and customer service roles are indeed held by the same person, this raises serious concerns about impartiality in the investigation. It appears that [navn udeladt], who has previously handled my husband's fine tickets, is involved. This presents a conflict of interest, and I insist that a neutral party investigate this case to ensure fairness and justice.
5. **Request for Office Location:** For transparency and to better understand how customer care services are being managed, I would like to visit your office. Please provide me with your office location.

To summarize, no fines were issued or discussed on the bus, no CPR number was requested, and the bus driver's guidance was followed in good faith. I ask that you investigate this matter thoroughly, revoke the incorrect fine, and provide proof where it shows I was in the wrong.

I look forward to your prompt response and resolution of this matter."

NT svarede den 2. juli 2024:

"As we have previously stated, the control fee is maintained and the case is closed from our side. If you wish to complain, you must follow the instructions below"

NT har under ankenævns sagen henvist til NT's korrespondance med klagerens mand, som fremgår af ankenævnets sag 24-0232 vedrørende klage over en kontrolafgift udstedt til klagerens mand af NT den 5. april 2024. NT har særlig fremhævet følgende dele af korrespondancen:

" ma 29-04-2024 12:11

NB:

You have stated that your wife uses your personal commuter card [nummer udeladt]. It's important that you are aware that if your wife uses one of your personal cards (this applies to both the regular travel card and your commuter card), she will get a control fee.

a personal card may only be used by the person whose name is printed on the card I would therefore strongly recommend that she get her own card."

"ti 30-04-2024 13:59

You have asked where it says that another person is not allowed to use your personal travel card and commuter card. I have inserted the rules for using personal travel cards below applicable to both the personal travel card and the commuter card.

And again, to avoid getting another control fee, I would recommend that your wife get a personal travel card or commuter card with her name on it

Links to the above pages:

[Faelles-landsdaekkende-rejseregler.ashx \(rejsekort.dk\)](#)

[Kortbestemmelser-Pendlerkort.ashx \(rejsekort.dk\)](#)"

" ti 30-04-2024 15:08

In the previous email, links have been inserted to the rules for traveling with public transportation in Denmark as well as the rules for travel cards. It is true that these are in Danish, but it is possible to insert the text into a translation program.

As for your wife, you can pay for topping up her travel card or commuter card with your credit card, but it is her name that must appear on the card she uses.

Otherwise, you can buy a Rejsekort Flex. It is without a name and can be used by other people."

SEKRETARIATETS BEHANDLING AF SAGEN:

Sekretariatet har bedt NT om at besvare følgende spørgsmål:

- 1) Hvorfor er kontrolafgiften udstedt manuelt og ikke elektronisk?
- 2) Hvorfor er klageren ikke i kontrolsituationen blevet bedt om at underskrive kontrolafgiften i feltet "Passagerens underskrift"?
- 3) Hvis den manglende underskrift skyldes, at klageren ikke ønskede at medvirke til kontrolens gennemførelse, hvad er da NT's procedure i sådanne tilfælde?
- 4) Har NT hørt kontrolløren om det passerede ved kontrollen?
- 5) Har NT hørt buschaufføren om det passerede i billetteringssituationen, herunder at han/hun ifølge klageren oplyste, at hun gerne måtte rejse på det pågældende Rejsekort Personligt, når blot hun var ledsaget af sin mand?
- 6) NT bedes endvidere indsende rejsekorthistorik for den pågældende rejse samt oplyse, hvilken pris klageren betalte for rejsen, og hvilken pris hun rettelig skulle have betalt

NT har svaret følgende:

" Hermed NT's svar på nedenstående spørgsmål:

1) Hvorfor er kontrolafgiften udstedt manuelt og ikke elektronisk?

Kontrollørens svar: *Hun ([navn udeladt]) ønsker ikke at bidrage med oplysninger, og jeg fortæller hendes mand, at jeg udsteder en afgift, når jeg hjemme på kontoret har undersøgt, om der har været lignende tilfælde, hvor hun har rejst på mandens personlige rejsekort.* Da kontrolafgiften ikke er udstedt på stedet, men efter at kontrolløren har undersøgt sagen, er afgiften givet manuelt og ikke elektronisk. Kontrolløren finder frem til klagers personlige informationer gennem opslag af klagers mands CPR-nummer i CPR-registreret. Hendes mands CPR-nummer kan fremsøges i rejsekortsystemet ud fra rejsekortnummer.

2) Hvorfor er klageren ikke i kontrolsituationen blevet bedt om at underskrive kontrolafgiften i feltet "Passagerens underskrift"?

Kontrollørens svar: *Kontrolafgiften er lavet efterfølgende, efter sagen blev undersøgt.* Generelt kan oplyses, at NT ikke benytter underskriftsfeltet, da passagerens underskrift ikke er påkrævet for at udstede en kontrolafgift.

3) Hvis den manglende underskrift skyldes, at klageren ikke ønskede at medvirke til kontrollens gennemførelse, hvad er da NT's procedure i sådanne tilfælde?

Underskriften er ikke relevant for at gennemføre en kontrol, men vi skal have oplysninger om passagerernes identitet. I dette tilfælde var kontrolløren ikke i tvivl om, at kortindehaver var hendes mand (hvilket klager heller ikke på noget tidspunkt anfægter), og derved kunne kontrolløren finde frem til hendes identitet. I tilfælde hvor en passager nægter at identificere sig, kan konsekvensen være, at politiet tilkaldes/kontaktes

4) Har NT hørt kontrolløren om det passerede ved kontrollen?

Ja, se også besvarelsen af punkt 1, hvor der er refereret til kontrollørens svar.

5) Har NT hørt buschaufføren om det passerede i billetteringssituationen, herunder at han/hun ifølge klageren oplyste, at hun gerne måtte rejse på det pågældende Rejsekort Personligt, når blot hun var ledsaget af sin mand?

Nej NT har ikke været i kontakt med den pågældende buschauffør. Som vi læser klagen, har buschauffør oplyst, at der kan købes billet til klager på mandens rejsekort, men at hun ikke kan rejse på kortet alene. Dette er korrekt, idet der kun kan tjekkes ekstra personer ind på kortet samtidig med, kortindehaveren benytter kortet. NT er ikke enig i, der er oplyst, at klager blot skulle være ledsaget af sin mand. Denne udlægning er en fortolkning fra klagers side. Det fremgår af klagen, at buschaufføren "...told us you can't travel alone on this card...". Dette kan ikke oversættes til ledsagelse. Det er derfor vores opfattelse, at buschaufføren har vejledt korrekt, men vejledningen kan være misforstået, idet klager ikke har ageret i henhold til det oplyste. Klager har netop rejst alene på kortet, hvilket buschaufføren har oplyst, ikke er muligt. Det er altid den rejsendes ansvar at være i besiddelse af gyldig rejsehjemmel. Henset til den tidligere sag, hvor manden er blevet vejledt i udlån/anvendelse af rejsekort, finder NT ikke, klager kan være i god tro i forhold til den konkrete rejse med deraf følgende afgift.

6) NT bedes endvidere indsende rejsekorthistorik for den pågældende rejse samt oplyse, hvilken pris klageren betalte for rejsen, og hvilken pris hun rettelig skulle have betalt

NT har vedhæftet den efterspurgte rejsekorthistorik. Det fremgår af historikken, at der har været tjekket ind på rejsen. NT skal dog henlede opmærksomheden på, at afgiften er udstedt på baggrund af, at det personlige rejsekort er anvendt af en anden person end indehaveren af rejsekortet. Dette er i strid med reglerne. Såfremt klager skal rejse på sin mands rejsekort, skal klager tjekkes ind som ekstra person på kortet samtidig med, at kortindehaveren også selv er

tjekket ind. Dette er ikke sket, hvorfor klager ikke har været i besiddelse af gyldig rejsehjemmel jf. De landsdækkende rejseregler punkt 2.7.1

Klager har betalt **kr. 15,77** for rejsen.

Da klager ikke selv har et rejsekort, skulle hun betale **kr. 24,00** for en kontantbillet eller **kr. 17,52**, hvis hun var checket ind som ekstra rejsende på sin mands rejsekort, da hun ville have fået "udenfor myldretids" rabatten, men ikke rabatten for rabattrin 2, som på det givne tidspunkt var optjent på kortet."

ANKENÆVNETS BEGRUNDELSE FOR AFGØRELSEN:

Da klageren den 11. maj 2024 i selskab med sin mand rejste med NT's buslinje 11, var hun checket ind på sin mands Rejsekort Personligt, men imidlertid var manden ikke også checket ind på Rejsekortet sammen med hende.

Det fremgår af Rejsekort Kortbestemmelser Privat, at et Rejsekort Personligt kun kan anvendes som rejsehjemmel for andre end kortets ejer, hvis ejeren selv er checket ind på kortet og derudover har foretaget check ind af den eller de medrejsende. Hvis et Rejsekort Personligt benyttes uden, at kortindehaveren også selv er checket ind på rejsen, kan kortet inddrages, og den rejsende har ikke gyldig rejsehjemmel.

Da klageren ved kontrollen var checket alene ind på sin mands Rejsekort Personligt havde hun derfor ikke gyldig rejsehjemmel, selv om kortet var checket ind, og kontrolafgiften blev dermed pålagt med rette.

Det bemærkes, at man ved bestilling af Rejsekort accepterer betingelserne for kortet. Herudover har NT tidligere gjort klagerens mand, som klageren rejste sammen med, opmærksom på, at hans hustru ikke måtte rejse på hans personlige Rejsekort.

Ankenævnet kan ikke lægge til grund, at buschaufføren – imod hvad der gælder for Rejsekort Personligt – oplyste, at klageren *godt* måtte rejse på sin mands Rejsekort Personligt, uden at manden samtidig var checket ind på det pågældende Rejsekort, og det af klageren anførte herom kan derfor ikke føre til et andet resultat.

Den omstændighed, at kontrolløren ikke udstedte kontrolafgiften med det samme ombord på bussen, men udskrev en manuel kontrolafgift efterfølgende, kan endvidere ikke ændre på, at kontrolafgiften blev korrekt udstedt.

Imidlertid finder ankenævnet det kritisabelt, at kontrolløren ikke fulgte NT's normale procedure for at fastlægge klagerens identitet, som ifølge det oplyste ville have været at tilkalde politiet, men i stedet valgte at fremfinde hendes personoplysninger, når han var tilbage på kontoret, fordi han vidste, at parret var gift.

På baggrund af ovenstående, og da der kan optjenes rabat på rejser i Takstvest, finder ankenævnet herefter, at der i den konkrete sag ikke har foreligget sådanne særlige omstændigheder, at klageren kan fritages for kontrolafgiften.

Ankenævnet bemærker, at pligten til at betale kontrolafgiften ikke er betinget af, om passageren bevidst har forsøgt at omgå reglerne for korrekt brug af Rejsekort.

Ankenævnet har ikke kompetence til at behandle spørgsmålet om NT's behandling af klagerens og ægtefællens personoplysninger, idet dette henhører under Datatilsynet.

RETSGRUNDLAG:

Ifølge lov om trafikkselskaber § 29 kan selskabet udstede kontrolafgift og pålægge ekspeditionsgebyr til en passager, der ikke på forlangende foreviser gyldig rejsehjemmel.

I de Fælles landsdækkende rejserregler (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 1.000 kr. for voksne. Det gælder også, hvis passageren har købt rejsehjemmel via en mobil enhed, der ikke kan kontrolleres, f.eks. hvis denne er løbet tør for strøm eller gået i stykker. Det er passagerens ansvar, at rejsehjemlen er endeligt modtaget på den mobile enhed før påstigning.

I busser, hvor check ind sker om bord, skal check ind ske straks efter påstigning uden unødigt ophold, og inden passageren sætter sig ned.

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 metro-tillæg). 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.

Uddrag af "Terms and Conditions for Rejsekort Private" (Rejsekort Kortbestemmelser Privat):

" 1.6. Rejsekort types and expiry

A Rejsekort is issued as a Rejsekort Personal, Rejsekort Flex or Rejsekort Anonymous. All Rejsekort types have a printed card number. In principle, a Rejsekort expires five years from the date of issue, after which a new Rejsekort must be purchased. See the Rejsekort prices in section 1.5.

A Rejsekort Personal (including with Commuter Combi) is a Rejsekort for personal use. The Rejsekort holder must therefore always be checked in on the Rejsekort on journeys for which a Rejsekort Personal is used. The Rejsekort holder may be accompanied by other travellers, by checking them in. The Rejsekort holder's name is printed on the card. If a Rejsekort Personal is used without the Rejsekort holder also being checked in on the journey, the Rejsekort may be confiscated and the traveller will not have a legally valid travel document.

...

2.4. Use of travel document

...

The driver can upon request provide guidance on travel documents but does not perform systematic single ticket inspection.

..."

PARTERNES ARGUMENTER OVER FOR ANKENÆVNET:

Klageren anfører følgende:

" I am writing to file a formal complaint against NT Aalborg regarding an incorrect fine issued to me and the subsequent handling of my case, which includes a significant violation of my personal privacy.

Details of the Incident:

Date of Incident: 18/05/2024

Time of Incident: 21:01

Bus Line: 11 Jyllandsgade (Aalborg Kommune) to Zoneskifte

Control Fee: 1000 DKK

Summary of Issues:

Violation of Privacy:

I have a protected address, yet NT Aalborg obtained my address and issued a fine without my knowledge. According to Danish law, this is a violation of personal privacy.

NT Aalborg claims that the inspector obtained my CPR number from my husband, which is incorrect. Neither my husband nor I provided any identification or CPR number at any time.

Incorrect Fine Issuance:

During the mentioned travel, my husband bought a valid ticket using his card from the bus driver, who stated that I could travel with this ticket as long as I was accompanied by my husband. We complied with this instruction.

No control fee slip was handed to us during the travel. NT Aalborg later claimed that the fine was manually entered without providing us any receipt, which contradicts the legal requirement to issue a receipt for any fines on the spot.

Previous Incidents and Inspector Misconduct:

A previous case involving my husband is still pending with ABTM, where the same inspector, known for his unprofessional behavior, issued a wrong fine. This inspector's presence and actions on the bus on 18/05/2024 (Vedr. dit sagsnr. [udeladt]) have further aggravated our situation.

The inspector's actions have caused us significant stress and health issues, including increased blood pressure for me.

Bus Driver's Instructions:

The bus driver allowed us to purchase tickets using my husband's card and instructed that I could travel with him. This was followed correctly, yet NT Aalborg fined us.

This situation could be verified through the bus's camera footage, which I request be reviewed.

Request for Investigation:

I request ABTM to conduct a thorough investigation into this matter, including reviewing the bus's camera footage from the date and time of the incident.

Verify the correctness of the fine issuance and address the misconduct of the inspector involved.

Ensure a neutral party handles this investigation to avoid any conflict of interest, as it appears that NT Aalborg's customer service and the inspector roles might overlap.

Request for Resolution:

Revoke the incorrect fine issued to me.

Address the violation of my personal privacy.

Provide a formal apology for the stress and inconvenience caused by this incident and the inspector's misconduct.

Ensure that NT Aalborg's customer service improves to prevent such issues in the future.

Additional Information:

I am currently pregnant, a housewife, and financially dependent on my husband, which makes the fine a significant burden. This entire ordeal has caused undue stress during a sensitive period of my life."

Indklagede anfører følgende:

" Nordjyllands Trafikselskab maintains the control fee issued to the customer on 11-05-2024 at 21:05

The customer [navn udeladt] travels on the 11-05-2024 on Rejsekort [nummer udeladt], which is a personal Rejsekort belonging to her husband [navn udeladt]. Both [navn udeladt] and [navn udeladt] are being checked at 21:00.

Majid Ali travels on Pendlerkort [nummer udeladt] with a period that expired on 20-05-2024, after which this card has not been used.

Manual control fee no. [nummer udeladt] (Appendix 1) is issued to [navn udeladt] as she travels on a 3rd party's personal Rejsekort. In connection with the issuance of the control fee, personal data is requested, and the inspector has stated that [navn udeladt] provides the CPR number belonging to [navn udeladt].

The customer states: *"During the mentioned travel, my husband bought a valid ticket using his card from the bus driver, who stated that I could travel with this ticket as long as I was accompanied by my husband. We complied with this instruction."* Furthermore, the customer states: *"The bus driver allowed us to buy tickets via my husband's blue card pop-up money, but he told us you can't travel alone on this card."*

As the buses in Aalborg are predominantly based on self-service, customers have the option of not following the driver's instructions, which has happened in this case, as Majid Ali has not checked in on the blue personal Rejsekort with his wife as an extra check-in. It is the responsibility of the passengers to be properly ticketed.

[navn udeladt] and [navn udeladt] choose to interpret the driver's instructions as if the cardholder only needs to be on the trip, regardless of whether the cardholder travels on another Rejsekort. This is despite the fact that [navn udeladt] on 29-04 and 30-04 (Appendix 2) was made aware that his wife could risk getting a control fee if she used his personal Pendlerkort [nummer udeladt] or his personal Rejsekort [nummer udeladt].

In accordance with the Fælles landsdækkende rejseregler (Appendix 3), [navn udeladt] has been informed about the rules as he on the 30-04 has received a link to the Fælles landsdækkende rejseregler. He has had the opportunity to insert the text into a translation program and familiarize himself with the rules for the use of public transport

On the personal Rejsekort, you earn the highest discount compared to other card types. The more you travel, the cheaper the trips become. If the card is shared with others, you will get the larger discount faster. By the fact that the spouses have travelled together and have been checked in on Rejsekort [nummer udeladt] at the same time as the other spouse has used Pendlerkort [nummer udeladt], [navn udeladt] has now achieved discount level 2, which has benefited him, as he has not renewed his season ticket after the 20-05.

The customer states that she has a protected address, but when looking up the address in the CPR register, the address appears.

As stated, the control fee is manually issued, and therefore there is no receipt to give to the customer. [navn udeladt] received a receipt for his control fee, as it was issued electronically."

Hertil har klageren bemærket:

" I am writing to address the control fee of DKK 1000 that I recently received, which I believe was issued incorrectly. I also have serious concerns regarding a violation of my privacy and the conduct of your inspector, which has had a detrimental impact on my health.

1. Violation of Privacy:

I'm very concerned about how you got my protected address. My address is not publicly accessible, and during my journey, neither I nor my husband was asked for identification or a CPR number. This raises a critical question for you: where did you get my address? This is a clear violation of Danish privacy laws, as my protected address should not have been accessed without my explicit consent. I would like to have a full explanation of how this breach occurred.

2. Inconsistencies in NT Statements:

In NT's last correspondence, you said that the control fee was manually entered and that no receipt was issued. According to Danish law, a receipt must be provided at the time of issuing a fine on the bus. Why was this protocol not followed? Furthermore, your claim that my CPR number was obtained from my husband is entirely false. No one requested our identification, and no fine was issued on the bus. This inconsistency in NT statements raises serious concerns about the validity of the control fee. I request that you verify this through the bus's camera footage or any other recordings from that day.

3. Misguidance by the Bus Driver:

On the day in question, my husband purchased tickets using his blue card, following the explicit instructions of the bus driver. The driver informed us that I could travel on the ticket purchased with my husband's card, provided I was not traveling alone. We followed these instructions precisely, so I don't understand why this has resulted in a fine. If the driver's guidance was incorrect, this is an issue with your system, not ours. I request that you review the bus's camera footage to verify our interaction with the driver and provide the necessary proof.

4. Ongoing Issues with the Same Inspector:

I would also like to let you know that my husband is currently involved in a separate case with NT, where the same inspector issued an incorrect fine. This inspector, known for his unprofessional behavior, was present on the bus on 18/05/2024 and has further aggravated our situation. His actions have caused us significant stress, leading to health issues, including increased blood pressure for me. This inspector's conduct is unacceptable and has had a direct negative impact on our well-being. In my opinion, this inspector and his colleagues have been unfairly targeting us. Their actions suggest bias, which is evident in the repeated issues we've

faced. Because of this, we no longer feel comfortable using NT buses for our daily commutes, which has severely disrupted our lives.

5. Request for Proof and Investigation:

Given these serious concerns, I urge you to conduct a thorough and impartial investigation into this matter. Please provide all evidence you have, including any recordings or documentation that supports your claims. I also request that you review the bus's camera footage to confirm the facts as stated.

Considering the privacy violation, inconsistencies in your statements, and the inspector's unprofessional behavior, I firmly believe that the control fee issued to me is unjustified. I request that this fine be revoked immediately. Furthermore, I expect a formal apology for the undue stress and health issues caused by this situation.

Please address these issues promptly and provide a detailed response to my concerns. I trust that ABTM will take the necessary steps to resolve this matter fairly and in accordance with the law.

Thank you for your attention to this matter. Please find attached the response from NT but I highlighted yellow with comments from my side for your reference."

Hertil har indklagede bemærket:

"

1. Violation of Privacy:

The answer can be found in our email to the customer of 12-06-2024

2. Inconsistencies in NT Statements:

The answer can be found in our email to the customer of 13-06-2024

3. Misguidance by the Bus Driver:

As the buses in Aalborg are predominantly based on self-service, customers have the option of not following the driver's instructions, which has happened in this case, as [navn udeladt] has not checked in on the blue personal Rejsekort with his wife as an extra check-in. It's the responsibility of the passengers to be properly ticketed.

This is further elaborated in our response to the Ankenævnet under section *b) your comments on the complaint:*

4. Ongoing Issues with the Same Inspector / 5. Request for Proof and Investigation:

When our inspectors issue a control fee, it's done on the basis that the passenger has not been ticketed correctly. The subsequent processing of the customer's complaint about the fee has found the fee to be given on the correct basis"

Klageren har yderligere bemærket:

"Again, totally wrong answers. Do you happen to have proof of the video about the inspector issuing me a fine or fine tickets? Please try to behave as a human being during your duty instead of anything else.

Please don't misuse power and promote public transport."

Og har tilføjet:

"Sorry but one more thing, I am writing to express my concern and confusion regarding your role. Are you working for Justice or the transportation companies? From what I have observed, almost 99.99% of your decisions seem to favor these companies. Furthermore, upon reviewing feedback on both your services and those of NT on Facebook, I noticed that approximately 80% of people do not recommend NT. This suggests that not all customers can be wrong.

I believe in the importance of fairness and justice. We live in a well-established and democratic country, Denmark, where every individual's opinion matters.

Such actions discourage the use of public transportation and hinder Denmark's zero-carbon policy efforts. I urge the Appeal Board to investigate these matters thoroughly and impartially to uncover the facts about NT's control and customer service practices."

På ankenævnets vegne

A handwritten signature in blue ink, appearing to read 'Lone Bach Nielsen', with a long horizontal flourish extending to the right.

Lone Bach Nielsen
Nævningsformand