

## AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

- Journalnummer:** 2022-0252
- Klageren:** XX  
USA
- Indklagede:** Metroselskabet I/S v/Metro Service A/S  
**CVR-nummer:** 21 26 38 34
- Klagen vedrører:** Kontrolafgift på 750 kr. grundet forevisning af kvittering for køb af billet i stedet for billetten, som klageren ikke kunne finde ved kontrollen
- Parternes krav:** Klageren ønsker, at ankenævnet annullerer kontrolafgiften, og gør gældende, at hun havde købt en billet til 80 kr., som hun dog ikke kunne finde ved kontrollen, men hun kunne vise en personlig bankkvittering for købet til kontrolløren, hvilket er mere personligt end en upersonlig billet, der kan forevises af alle
- Indklagede fastholder kontrolafgiften
- Ankenævnets sammensætning:** Nævnensformand, landsdommer Tine Vuust  
Rolf Olsen  
Torben Steenberg  
Helle Berg Johansen  
Anna Langskov Lorentzen

Ankenævnet for Bus, Tog og Metro har på sit møde den 15. december 2022 truffet følgende

### **AFGØRELSE:**

Metro Service er berettiget til at opretholde kravet om betaling af kontrolafgiften på 750 kr.

Beløbet skal betales til Metro Service, 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 forsikringselskab om eventuel forsikringsretshjælp.

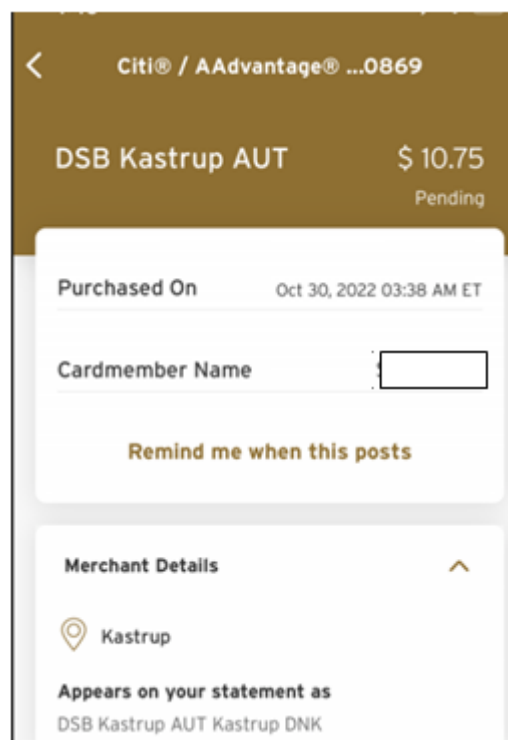
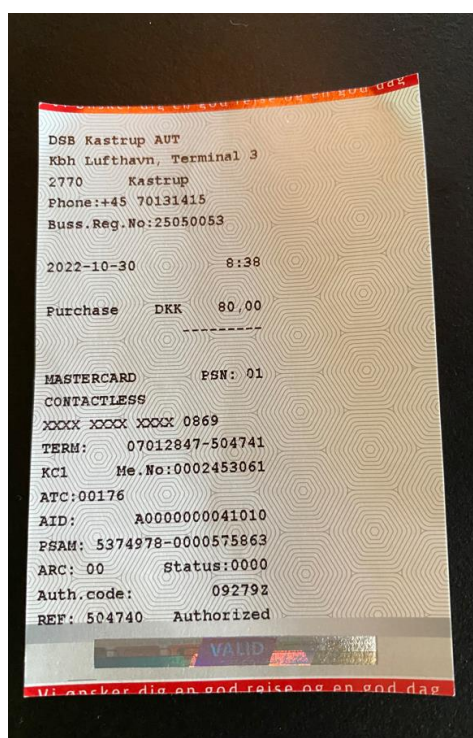
## SAGENS OMSTÆNDIGHEDER:

Klageren, der bor i USA, skulle den 30. oktober 2022 mellemlande i Kastrup Lufthavn i nogle timer, og havde inden rejsen sat sig grundigt ind i reglerne om billetter til kollektiv transport, fordi hun ville besøge København i de timer, der var til hendes næste fly videre. Efter ankomst til Danmark købte hun derfor i lufthavnen kl. 08:38 en endagsbillet til 80 kr. for at komme til og fra centrum.

Da klageren senere på dagen skulle rejse med Metroen retur til Lufthavnen, var der kontrol af hendes rejsehjemmel. Her kunne hun imidlertid ikke finde sin billet, så hun viste stewarden kvitteringen for betaling af 80 kr. for billetkøbet.

Men da kvittering for køb af upersonlig billet ikke kan benyttes som gyldig rejsehjemmel, blev klageren kl. 12:17 pålagt en kontrolafgift på 750 kr.

Senere samme dag, den 30. oktober 2022, anmodede klageren Metro Service om at annullere kontrolafgiften og gjorde gældende som anført ovenfor samt vedhæftede kvitteringen fra billetautomaten og kvittering for betalingen fra sin bank:



Metro Service fastholdt kontrolafgiften den 1. november 2022 med den begrundelse, at endagsbilletten ikke er personlig med navn eller foto og derfor ikke kan forevises efter kontrollen. Billetten kan deles mellem passagerer, og er derfor kun gyldig for ihændeageren ved kontrollen. En kon-

trolafgift kan ikke annulleres på baggrund af en kvittering, fordi billetten kan anvendes af ihænde-  
haveren, uanset hvem, der har betalt for den. Endelig anførte Metro Service, at passagerens inten-  
tioner ikke kan tages i betragtning, da alle skal behandles ens efter de Fælles landsdækkende rej-  
seregler.

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

Ved kontrollen i metroen den 30. oktober 2022 kunne klageren ikke forevise gyldig rejsehjemmel,  
fordi hun ifølge det oplyste ikke kunne finde sin endagsbillet til 80 kr.

Kontrolafgiften blev hermed pålagt med rette.

Den omstændighed, at klageren foreviste kvitteringen på 80 kr. fra billetautomaten og en kvitte-  
ring for, at beløbet var trukket fra hendes konto i USA, kan efter ankenævnets faste praksis ikke  
føre til et andet resultat, da kvitteringer ikke er gyldige som billet.

Klageren har anført, at det må være et bedre bevis for, at man har betalt for sin billet, hvis man  
viser en kvittering fra sin bank med navn, der tidsmæssigt og beløbsmæssigt stemmer overens  
med kvitteringen fra billetautomaten, end hvis man viser en upersonlig billet, der kan deles af alle  
og fx samles op fra gulvet, og dermed ikke er betalt af ihænde-  
haveren.

Ankenævnet bemærker hertil, at det i relation til rejsereglerne ikke er af betydning, hvem der har  
betalt for billetten, og hvis det accepteres at sidestille en kvittering med en upersonlig billet, vil to  
personer kunne købe én billet med kvittering og dele disse to dokumenter mellem sig, hvilket ikke  
er hensigten bag muligheden for at købe en upersonlig rejsehjemmel.

Den omstændighed, at en upersonlig gyldig billet vil kunne samles op af en anden passager, kan  
ikke føre til en anden vurdering i medfør af de Fælles landsdækkende rejseregler, der foreskriver,  
at passageren på forlangende skal forevise gyldigt kort eller billet.

Pligten til at betale kontrolafgift er ikke betinget af, om passageren har handlet bevidst, og det er  
ankenævnets opfattelse, at der ikke har foreligget sådanne særlige omstændigheder, at klageren  
skal fritages for kontrolafgiften.

### **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 kontrolafgif-  
ter, 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, skal betale en kontrolafgift på 750 kr. for voksne.

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

### **Klageren anfører følgende:**

“I was issued a fare evasion ticket on October 30, 2022 on Metro 2 going back to Copenhagen International airport from downtown. I had a half day excursion in Copenhagen during my 8-hour layover in the city. I was not able to present the ticket upon inspection, but I did show the officer the receipt of the ticket I purchased that morning at 8:38. However, I still received the citation but the officer said I could protest by writing to Metro Kundeservice. That was what I did after I went back to the airport. I sent Metro Kundeservice the photo of my receipt and the credit card statement with the same amount of money --\$10.75 USD (=80 DKK) at the exact same purchasing time--DK 8:38 am--US Eastern Time 3:38 am on October 30,2022. (Please note, Oct 30 also was the end of day light saving time in Europe, so the time difference between US ET and DK was 5 hours instead of 6 hours)

Metro Kundeservice declined my protest with the reason that “a ticket is not personalized with a name or photograph, and as such we cannot accept subsequent presentation of these. They can be shared with others, and thus a ticket is only valid when presented by the ticket holder upon inspection. Additionally, it is not possible to have a fare evasion ticket 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 totally disagree with the above given reasons. It is true that the ticket is not personalized because there is no name or photograph and it also makes sense that because of that, the ticket itself can be shared with other passengers.

However, when the officer checked people’s tickets on Metro train, he only asked for the ticket, but not the proof of purchase. If that is the case, since the ticket does not have name or photograph, the ticket someone has in possession might be given by others or picked up from the floor, or shared with another person. The ticket itself does not really prove the ticket holder is the one paying for the ticket.

It was unfortunate I was not able to find the ticket I bought at the machine at the airport. However, I did show proof of purchase with the receipt and the credit card statement. All the information matched on these two documents. The purpose of having officers board the metro trains to conduct inspection on people’s tickets is to make sure people do buy a ticket. In my cases, even though I was not able to present the ticket itself at the inspection, I was able to prove that I spent 80 DKK to buy an all-day ticket during my brief visit in the beautiful Copenhagen.

Metro Kundeservice rejected my request to dismiss the citation, but it is totally unfair and illogical because they are not using the same standard to others. If people might share or use

another person's ticket, then the officer should ask everyone to show proof of purchase at the inspection to make sure ticket holders are the ones who pay for the ticket.

I myself am working for government. I always follow the laws. I did some research online before going to Copenhagen and learned where to buy the metro ticket and how much it would cost me. I did what I planned to do—went to the ticket station at Terminal 3 and asked help from the staff there to purchase my all-day metro ticket. The only thing I regretted was I misplaced the ticket and was not able to locate it. However, I did select "receipt" after I purchased the ticket just to keep the record of purchase.

I have gone through all the processes to come to you, the Appeal Board to present my case because I legitimately paid for the metro ride and I showed proof of payment with the ticket receipt. I don't believe I am deserved to be fined.

I thank you for reviewing my case and I hope you agree with me that this fare evasion ticket should be dismissed."

### **Indklagede anfører følgende:**

"In the specific case, the complainant was met by our inspector October 30<sup>th</sup>. 2022 at 12:17 between Femøren station and Copenhagen airport, and as she could not present a valid travel document a fare evasion ticket was issued in accordance with applicable rules.

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. Nowhere on the receipt is it stated what the complainant has bought. In cases where a valid travel document cannot be presented on request, it must be accepted to pay a control 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.

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

When dealing with cards/tickets without name and/or photo, these are impersonal travel documents, which are only valid if presented at ticket control.

A day ticket is an impersonal travel document that can be used by anyone and is therefore only valid if it is shown to the staff in the control situation, whoever may have bought and/or paid for the ticket is therefore irrelevant.

Because this kind of ticket can be used by anyone, a presentation 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 at the bottom of section **2.6 Inspection of travel documents** following is stated:

**If a valid travel document cannot be presented on request during inspection, subsequent presentation will not be accepted, see section 2.7.5, however, concerning travelling without a Commuter Pass.**

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

## 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.

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

In conclusion we must refer to earlier decisions made by the Appeal Board in similar cases, where the complainants were unable to show an unpersonal ticket upon inspection but at the time or subsequently presented a receipt for purchase or a account statement from the bank, and in which cases the traffic companies were entitled to uphold their claims - <https://www.abtm.dk/afgorelser/?showcat=13342>.”

På ankenævnets vegne



Tine Vuust  
Nævnetsformand