

## AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

<b>Journalnummer:</b>	2023-0003
<b>Klageren:</b>	XX 2000 Frederiksberg
<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 rejse i zone 02, hvortil billetten ikke var gyldig
<b>Parternes krav:</b>	Klageren ønsker, at ankenævnet annullerer kontrolafgiften, og gør gældende, at han ikke rejste fra den Metrostation, som Metro Service påstår
	Indklagede fastholder kontrolafgiften
<b>Ankenævnets sammensætning:</b>	Nævnsformand, landsdommer Tine Vuust Jacob Ruben Hansen Torben Steenberg Helle Berg Johansen Dorte Lundqvist Bang

Ankenævnet for Bus, Tog og Metro har på sit møde den 12. april 2023 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.

-0Oo-

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 forsikringsselskab om eventuel forsikringsretshjælp.

## SAGENS OMSTÆNDIGHEDER:

Klageren skulle den 21. november 2022 rejse fra København til Aarhus med DSB og havde købt en standard DSB Print Selv-billet, der var gyldig fra København H (omstigningsområde zone 01) til Aarhus H.:

### Billetten gælder

Billetten er gyldig i bus, tog og Metro i forbindelse med ovenstående rejse.

Fra: Station/Område: København H (1001)

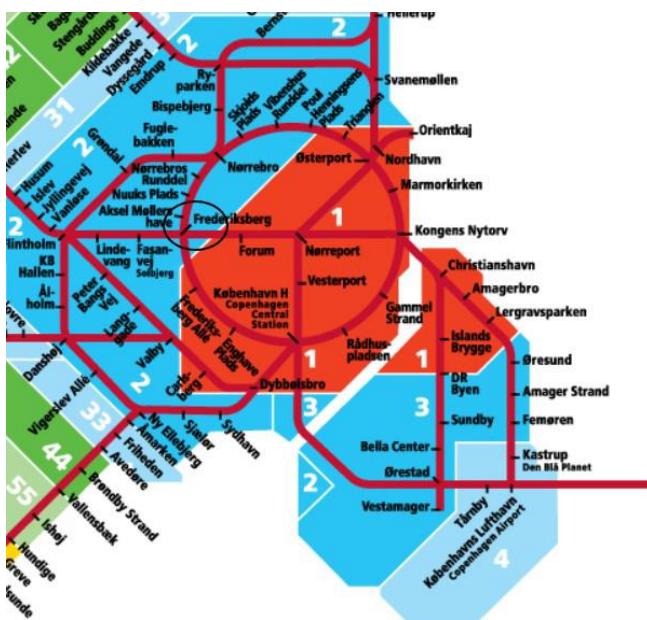
Til: Station/Område: Aarhus H (4301)

### Betingelser

- Denne Print Selv-billet, samt det valgte Print Selv-ID, skal medbringes på rejsen. Det valgte Print Selv-ID kan ses under billettes bestillingsoplysninger. Billetten skal kunne vises i sin helhed.
- Denne Print Selv-billet kan tilbagebetales til og med: 20. november 2022. Print Selv-billetter kan kun tilbagebetales via [www.dsbs.dk/netbutik/refundering](http://www.dsbs.dk/netbutik/refundering).
- Ændring eller kopiering af Print Selv-billetten er strafbar og vil blive retsforfulgt. Billetten bliver inddraget af togpersonalet og passageren vil blive opkrævet en kontrolafgift.
- Enhver tvist mellem passageren og DSB skal afgøres efter dansk ret ved de ordinære domstole.
- Billetten gælder sammen med det benyttede selskabs rejsegeregler som aftale om rejse.
- Rejsegeregler med oplysning om rejsetidsgaranti, erstatning ved forsinkelse, erstatningsbefordring, erstatningsansvar mm. kan findes på DSB's hjemmeside.
- Denne billet er gyldig fra 21. november 2022 04:00 til 22. november 2022 03:59.

En DSB standardbillett er også gyldig til rejse med bus og Metro i omstigningszonen, således at passageren kan fragte sig til DSB togets afgangsstation. Klageren kunne derfor med billetten rejse med Metroen fra og med zone 01 til København H, hvor han skulle skifte til DSB-toget.

Klageren har ikke oplyst, hvor han steg ombord på Metroen, men har gjort gældende, at han først blev kontrolleret efter, at Metroen havde forladt Frederiksberg Allé, der ligger i zone 01, hvorfor hans togbillett til zone 01 var gyldig ved kontrollen:



Ifølge Metro Service blev klageren imidlertid kontrolleret på Metroen mellem Frederiksberg st., der ligger i zone 02, og Frederiksberg Allé i zone 01, og når zonenummeret skifter mellem to stationer, skal passageren have rejsehjemmel til begge zoner, hvilket klageren ikke havde.

Ifølge de tekniske logs for Metroen, lukkede den dørene på Frederiksberg st. kl. 07:31:22 og forlod stationen kl. 07:31:25. Derefter ankom den til Frederiksberg Allé st. kl. 07:32:46, hvorefter perrondørene blev åbnet kl. 07:32:48, så der kunne stige passagerer ombord. Perrondørene lukkede igen kl. 07:33:05, og toget afgik kl. 07:33:08:

Time	Vehicle	Message	Station	Next Station
21/11/2022 07:34:33	014	Train Arrival	Enghave Plads	København H
21/11/2022 07:33:08	014	Train Departure	Frederiksberg Alle	Enghave Plads
21/11/2022 07:33:06	014	Train Doors Closed	Frederiksberg Alle	Enghave Plads
21/11/2022 07:33:05	014	Platform Doors Closed	Frederiksberg Alle	Enghave Plads
21/11/2022 07:32:48	014	Platform Doors Opening	Frederiksberg Alle	Enghave Plads
21/11/2022 07:32:48	014	Train Doors Opening	Frederiksberg Alle	Enghave Plads
21/11/2022 07:32:46	014	Train Arrival	Frederiksberg Alle	Enghave Plads
21/11/2022 07:31:25	014	Train Departure	Frederiksberg	Frederiksberg Alle
21/11/2022 07:31:22	014	Train Doors Closed	Frederiksberg	Frederiksberg Alle
21/11/2022 07:31:21	014	Platform Doors Closed	Frederiksberg	Frederiksberg Alle
21/11/2022 07:30:58	014	Platform Doors Opening	Frederiksberg	Frederiksberg Alle
21/11/2022 07:30:57	014	Train Doors Opening	Frederiksberg	Frederiksberg Alle
21/11/2022 07:30:56	014	Train Arrival	Frederiksberg	Frederiksberg Alle

Efter at stewarden havde anmodet om at se klagerens billet, påbegyndte stewarden at indtaste kontrolafgiften på sit elektroniske device, hvilket blev logget til kl. 07:32:00:

```
<FeeDate>2022-11-21T07:32:00.0000000</FeeDate>
<Line>M3/M4</Line>
<StationFrom>Frederiksberg</StationFrom>
<StationTo>København H</StationTo>
```

Klageren fik udleveret en manuelt udfyldt kontrolafgift, hvor stewarden skrev, at der manglede zone 2 på papirbilletten. Stewarden rettede tidspunktet for udstedelsen fra kl. 07:33 til at være kl. 07:32, og klageren har gjort gældende, at dette underbygger, at kontrollen kan have fundet sted helt frem til kl. 07:32:59, hvilket var efter, at toget var stoppet ved Frederiksberg Allé i zone 01 kl. 07:32:46.

Fare evasion ticket no.



Dag Day	Måned Month	År Year	Klokken Time	Steward ID	
21	VI	22	07:32	21 5 32	
					For yderligere information, se bagsiden. For further information see the back
Fra From	FRB				Indbetalers navn og adresse
Til To	KBH H				
Årsag Cause	IRKE GYLDIG. PAPIR BILLIG. MANGLER ZONE 2				Vigtige oplysninger for din fortsatte rejse Kontrolafgiftens indbetalingskort er gyldig som enkeltbillet til den fortsatte rejse. Biletten gælder kun til en enkelt ubrudt rejse med metro til den station, som den rejsende har oplyst ved udstedelsen. Omstigning er dog tilladt. Ved kontrolafgift udstedt til børn (under 16 år) gælder, at kontrolafgiften kan anvendes som rejsehjemmel i både busser, tog og metro i zone 1-99 fra tidspunktet for udstedelsen og resten af billetdøgnet.
Ialt Total	Kroner 750 Øre 00				Important information about your continued journey The payment slip for this fare evasion ticket is valid as a single fare ticket for your continued journey. The fare evasion ticket is only valid for one continued journey with the Metro, to the station mentioned as your destination when the fare evasion ticket was issued. If the fare evasion ticket is issued to a child (under the age of 16), it is valid as a ticket for buses, trains and Metro in zones 1 through 99.

Den 3. december 2022 indgav klageren en klage til Metro Service over kontrolafgiften og gjorde gældende som gengivet ovenfor, samt at han ikke havde villet argumentere med stewarden, fordi han ikke var så godt bekendt med zonerne, men efterfølgende var han blevet klar over, at han var blevet kontrolleret i zone 01:

"I received this ticket (scan attached) on the M3 line somewhere between Frederiksberg Allé and København H. I had a printed train ticket (attached) that allowed me to use the metro ("1001" indicating Zone 1). The controller told me that I had to pay a fine because I was in Zone 2 and my train ticket was only valid for Zone 1. I do not know the zone system by heart, so I believed him. Afterwards I looked it up and realised that I was, in fact, in Zone 1 when he controlled me. I find it frankly irritating that I was being fined with a perfectly valid ticket in hand and I will obviously not pay it."

Metro Service fastholdt kontrolafgiften den 6. december 2022, fordi stewarden begyndte kontrollen af klageren efter, toget havde forladt Frederiksberg st. i zone 02 i retning mod Frederiksberg Allé st. i zone 01, og klagerens billet var i henhold til zonekortet dermed ikke gyldig.

Klageren og Metro Service kommunikerede efterfølgende om de loggede tidspunkter, og Metro Service henviste til, at stewarden havde logget kontrollen kl. 07:32:00, hvor toget var undervejs fra Frederiksberg st., hvilket kræver billet til zone 02, samt at det ikke er afgørende hvornår eller hvor, kontrollen begynder eller afsluttes.

Herefter indbragte klageren sagen for ankenævnet, hvor han har gjort gældende, at det jo netop er meget afgørende, hvor han blev kontrolleret, idet hele kontrolafgiftens begrundelse er, at han befandt sig i zone 02 ved kontrollen.

## ANKENÆVNETS BEGRUNDELSE FOR AFGØRELSEN:

Således som sagen er belyst med de tekniske logs, anser ankenævnet det for uomtvisteligt, at stewarden påbegyndt indtastningen af klagerens kontrolafgift på sit elektroniske device kl. 07:32:00. Ankenævnet lægger desuden til grund, at dette først skete efter, at stewarden havde spurgt om klagerens rejsehjemmel og havde fået forevist den printede papirbillet.

Kontrollen af klagerens rejsehjemmel må således have ligget før kl. 07:32:00.

Metroens døre lukkede på Frederiksberg st. kl. 07:31:25 i zone 02 og åbnede efter ankomst til Frederiksberg Alle st. kl. 07:32:46 i zone 01.

Ankenævnet kan herefter ikke lægge til grund, som påstået af klageren, at han først blev kontroleret efter, at Metroen havde forladt Frederiksberg Allé st. i zone 01. Ankenævnet har lagt vægt på, at Metroen først afgik fra denne station kl. 07:33:08, hvilket er mere end 1 minut efter, at stewarden var gået i gang med at indtaste kontrolafgiften til klageren.

Ankenævnet konstaterer desuden, at klageren var steget om bord på Metroen inden Frederiksberg Allé st. Da Frederiksberg st. ligger i zone 02, skulle klagerens billet også have været gyldig til rejse i denne zone, hvilket den ikke var.

Som følge af det anførte blev kontrolafgiften for at mangle zone 02 pålagt med rette, og ankenævnet finder, at der ikke har foreligget sådanne særlige omstændigheder, at kontrolafgiften skal fratildes.

Ankenævnet bemærker, at passagerer i medfør af de Fælles landsdækkende rejseregler skal have gyldig billet fra rejsens start, og i den relation har det ikke betydning, at passagerens billet isoleret set er gyldig til den zone, hvori kontrollen finder sted.

## 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.

## PARTERNES ARGUMENTER OVER FOR ANKENÆVNET:

### Klageren anfører følgende:

"I was inspected while on the metro M3 between Frederiksberg Allé and København H. I had a printed train ticket that was valid for Zone 1 in Copenhagen. The inspector told me that I was in Zone 2 and wrote me a fare evasion ticket. I initially believed him (as I don't know the zones by heart) but later realised that I was actually inspected in Zone 1 (which starts at Frederiksberg Allé).

I told Metro kundeservice that I do not understand why I should pay a fine as I had (and presented) a valid ticket for the zone I was in. They argued that I had to pay because the inspector got on the metro in Frederiksberg (i.e., in Zone 2). After I pointed out that I was being inspected while in Zone 1, they claimed that the time/place of inspection was irrelevant ("It is not a question of when or where the inspection starts and ends"). I find this highly questionable - it means that they want to fine me for having/presenting a valid ticket for Zone 1 while being inspected in Zone 1. I obviously completely disagree with that and can only hope that this is not in line with the regulations.

I would like to see the fine completely canceled. I think the facts provided above make it clear that the fine is unjustified."

### Indklagede anfører følgende:

"In the specific case, the complainant was met by our inspector November 21st. 2022 at 07:32 in the train after the train left Frederiksberg station (zone 02) heading for Frederiksberg Allé station (zone 01).

The complainant presented a print-it-yourself paper ticket from DSB which was valid from Copenhagen H/zon 01 (to Aarhus). As the complainant was ticketed in the running train between zone 02 and zone 01, he thus did not have a valid ticket and therefore had to receive a control 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 a control fee, which for an adult amount 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.  
In section 2.4.1 in the Joint National Travel Regulations can be read:

**2.4.1. Use of single tickets and cards issued on cardboard, paper or via mobile phone**

It is the customer's responsibility to ensure that cardboard or paper single tickets (e.g. the Pensioner's card) are correctly issued and are valid for the entire journey and the area of travel.

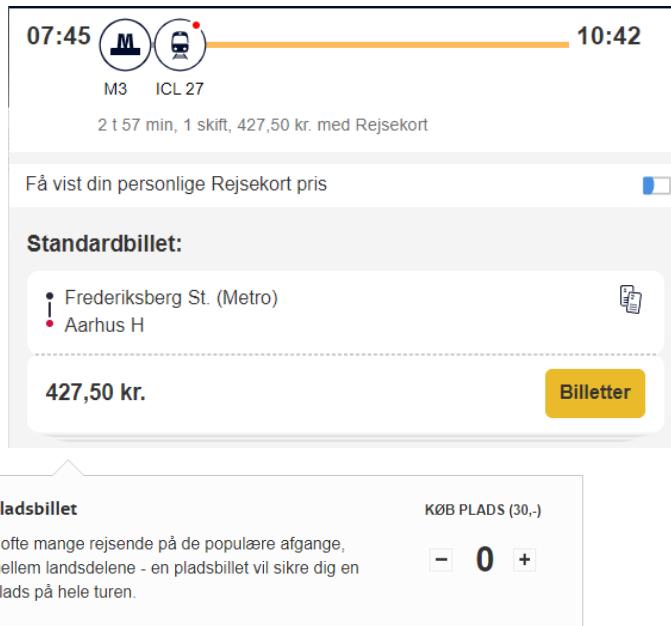


Page 9 of 36

The border between zone 02 and zone 01 is located midway between Frederiksberg station and Frederiksberg Allé station and it is not possible to get off the train between the two stations. Therefore, all passengers who wish to travel from Frederiksberg station to Frederiksberg Allé station are required to have a ticket that covers the entire journey, i.e. both zone 02 and zone 01.

If the complainant had wanted his DSB ticket to have been valid for a journey starting at Frederiksberg station, it would have been possible to buy such a ticket instead of specifying the departure station as København H.

On Rejseplanen.dk and DSB.dk we have searched a journey like the complainants, only departing from Frederiksberg station (zone 02), see below:



07:45   10:42

M3 ICL 27

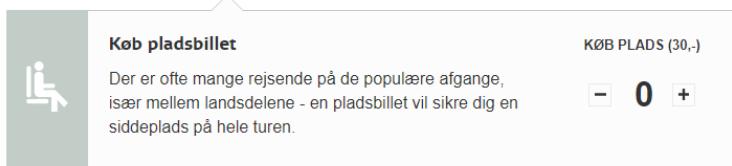
2 t 57 min, 1 skift, 427,50 kr. med Rejsekort

Få vist din personlige Rejsekort pris 

**Standardbillet:**

Frederiksberg St. (Metro)  
Aarhus H 

**427,50 kr.** 



Køb pladsbillet

KØB PLADS (30,-)

- 0 +

[Læs mere om vores billettyper](#)

07:45	 <b>Frederiksberg St. (Metro)</b>  Metro M3
	Her gælder billet 
07:50	 <b>København H (Metro)</b>  Gåtur
07:56	 <b>København H</b> (skift)
07:56	 <b>København H</b>  IC-Lyntog 27
	Her gælder billet 
10:42	 <b>Aarhus H</b>

 Data fra Rejseplanen

Since it is not possible to get off the train between the two stations, and since it is beyond any doubt that the complainant did not have a valid ticket for travel in zone 02, we maintain that both the control fee and the subsequent case processing are in accordance with applicable rules and thus also maintains our demand for payment of tax 0102[xxxx] of DKK 750."

### Til dette har klageren gjort gældende:

"What is stated by the transport company is correct in the sense that I had a printed paper ticket that was valid for zone 1.

However, I disagree with the statement that I was inspected in zone 2. I was, in fact, inspected in zone 1, namely between Frederiksberg Allé and København H (zone 1) and not between Frederiksberg and Frederiksberg Allé (zone 2) as the transport company seems to suggest. I would assume that producing a valid ticket is not a reason for being fined. The only problem was that I did not know the zone boundaries by

heart, which is why I believed the inspector that he had reason to fine me (instead of objecting immediately because the fine was in fact unjustified).

I had a long discussion via email with the transport company (the full correspondence can be found in the documents they provided), where they referred to the exact timing of the train to convince me that the inspection took place between Frederiksberg and Frederiksberg Allé. However, this was not the case and the arguments provided simply do not hold up:

1. The train reached Frederiksberg Allé at 07:32:46 according to the logs provided.
2. The time specified on the fare evasion ticket was 07:32 or 07:33 - both are written on the ticket as the inspector was apparently undecided with regard to the last digit (see attached pdf), which is somewhat curious.
3. Even if one assumes that 07:32 was correct (which I doubt), it would certainly include the whole minute (07:32:00-07:32:59), which coincides with the train stopping at Frederiksberg Allé, such that this timeline does not prove that I was inspected in zone 2.

After I had made those points, I was told that the fine was justified anyway, because (I quote): "It is not a question of when or where the inspection starts and ends."

This leaves me somewhat speechless - I very much think it does matter where I was inspected, as the fare evasion ticket is entirely based on the claim that I was in zone 2."

### **Til dette har indklagede svaret:**

"We maintain that the complainant was in zone 02 when the ticket control took place.

When ticket control is performed on the train, the steward asks the passengers to present their card or ticket.

If the passenger, as in the specific case, presents a printed ticket, the steward takes a short moment to look at what is presented. If the presented is not a valid travel permit, the steward activates his/her PDA to issue a fine.

When a fine is issued, the steward must state which station the train last left, which station the passenger states as destination and the train number.

From the electronic fine, it shows that the steward activated his PDA at 07:32:00. The steward indicated Frederiksberg station as the latest and that the passenger was going to København H.

```
<FeeDate>2022-11-21T07:32:00.0000000</FeeDate>
<Line>M3/M4</Line>
<StationFrom>Frederiksberg</StationFrom>
<StationTo>København H</StationTo>
```

The train report shows that train no 14 left Frederiksberg station (zone 02) at 07:31:25 and that the train arrived at Frederiksberg Alle station at 07:32:46.

As the steward activated his PDA at 07:32:00 after looking at the complainant's ticket, the complainant must necessarily have been on the train when it left Frederiksberg station, which is located in zone 02.

The complainant cannot have been on train 14 when it arrived at Frederiksberg Allé station at 07:32:46 if he had not (as the last possibility) boarded the train before the doors closed at 07:31:22 in zone 02 at Frederiksberg station.

With reference to the above as well as to previously submitted material, we maintain that the complainant did not have a valid ticket for zone 02 and thus also maintain that the fine was imposed correctly."

På ankenævnets vegne



Tine Vuust  
Nævnsformand