

## AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

- Journalnummer:** 23-0161
- Klageren:** XX på egne vegne og på vegne af ægtefællen YY  
Nederlandene
- Indklagede:** Metroselskabet I/S v/Metro Service A/S  
**CVR-nummer:** 21 26 38 34
- Klagen vedrører:** En kontrolafgift på 750 kr. til dem hver grundet rejse med Metroen på enkeltbilletter, der var udløbet
- Parternes krav:** Klageren ønsker, at ankenævnet annullerer kontrolafgifterne, og gør gældende, at de havde købt billetter, men da Metroen ikke gik, da de skulle ind til centrum, og de derfor måtte de gå, anvendte de de billetter, som de havde købt til udturen
- Indklagede fastholder kontrolafgifterne
- Ankenævnets sammensætning:** Nævnensformand, dommer Lone Bach Nielsen  
Gry Middtun  
Torben Steenberg  
Helle Berg Johansen  
Dorte Lundqvist Bang

Ankenævnet for Bus, Tog og Metro har på sit møde den 6. december 2023 truffet følgende

### **AFGØRELSE:**

Metroselskabet I/S v/Metro Service A/S er berettiget til at opretholde kravet om betaling af kontrolafgifterne på hver 750 kr.

Beløbet skal betales til Metroselskabet I/S v/Metro Service A/S, der sender betalingsoplysninger til klageren.

Da klageren ikke har fået medhold i klagen, tilbagebetales klagegebyret ikke, jf. ankenævnets vedtægter § 24, stk. 2, modsætningsvist.

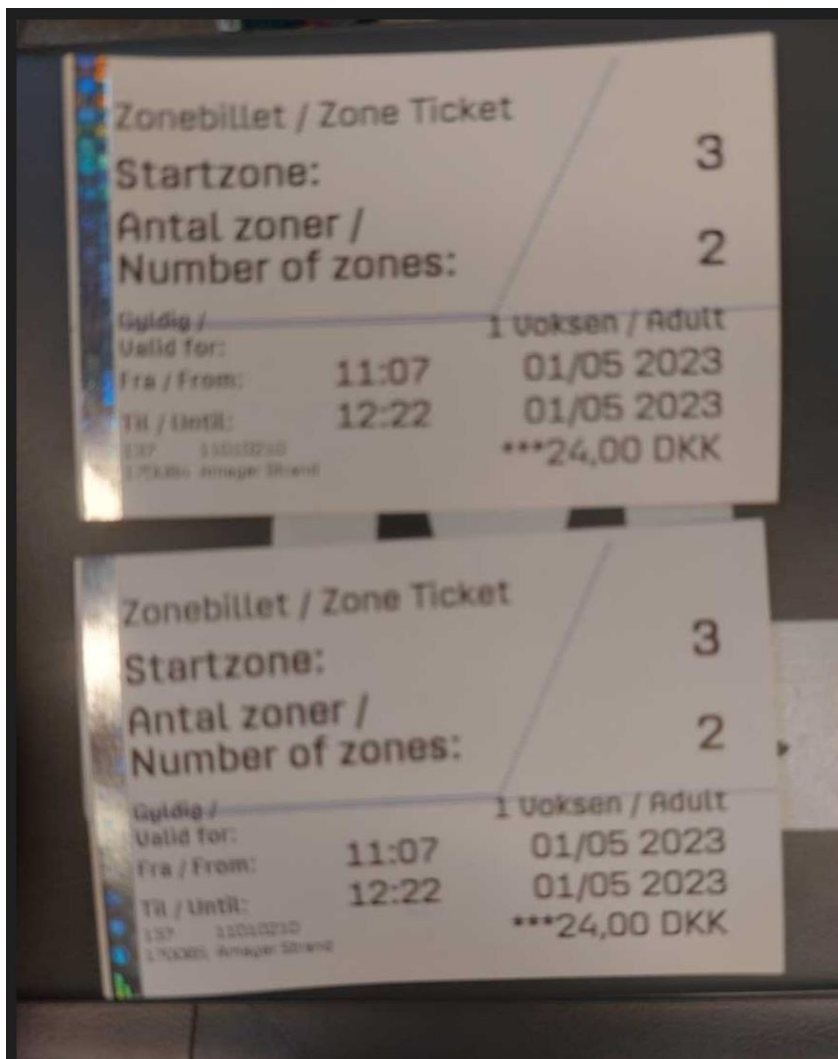
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Hver af parterne kan anlægge sag ved domstolene om de forhold, som klagen har vedrørt.

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

### SAGENS OMSTÆNDIGHEDER:

Klageren og hans ægtefælle var på ferie i København med deres to børn og skulle rejse med Metroen ind til centrum den 1. maj 2023. De købte to voksenenkeltbilletter fra zone 03 kl. 11:07 med udløb kl. 12:22:



Ifølge klageren fik de oplyst, at Metroen ikke gik grundet tekniske problemer, lige da de havde købt billetterne, hvorfor de måtte gå hele vejen ind til centrum. Da de skulle retur med Metroen, steg de ombord uden at have købt nye billetter.

Efter Rådhuspladsen st. var der kontrol af deres rejsehjemmel, og da de kl. 13:34 foreviste billetterne, der var udløbet kl. 12:22, blev de hver pålagt en kontrolafgift hver på 750 kr.

Den følgende dag, den 2. maj 2023, anmodede klageren Metro Service om at annullere kontrolafgifterne mod deres betaling af prisen for billetter fra Amager Strand til Nørreport med den

begrundelse, at de ikke vidste, at de rejste med forkerte billetter, og at Metroen grundet tekniske problemer ikke var afgået på udvejen, hvilket Metro kunne tjekke:

“We are a family of four from the Netherlands and we were visiting the city of Copenhagen yesterday.

The trip got a bad taste because of the fine we got while traveling in the metro due to not having purchased the right tickets.

We did not know we were traveling with the wrong tickets. The plan was to go from Amager strand to the botanical garden. When we just bought the tickets we heard that there were no trains going at that time due to a technical failure so we had to walk all the way to the city center. I attached a foto of the tickets so you can check the date and time with the time of the technical failure yesterday.

When we decided to go back to Amager strand with the metro we were being stopped by this (Unfriendly) controller who did not give us any chance to explain or help us get the right tickets.

I think he was targeting us because we where sitting in the train for less than 10 seconds and walk straight towards us instead of starting is controller task at the entrance of the train.

I also attached a foto of the fine tickets to this email so you can check it.

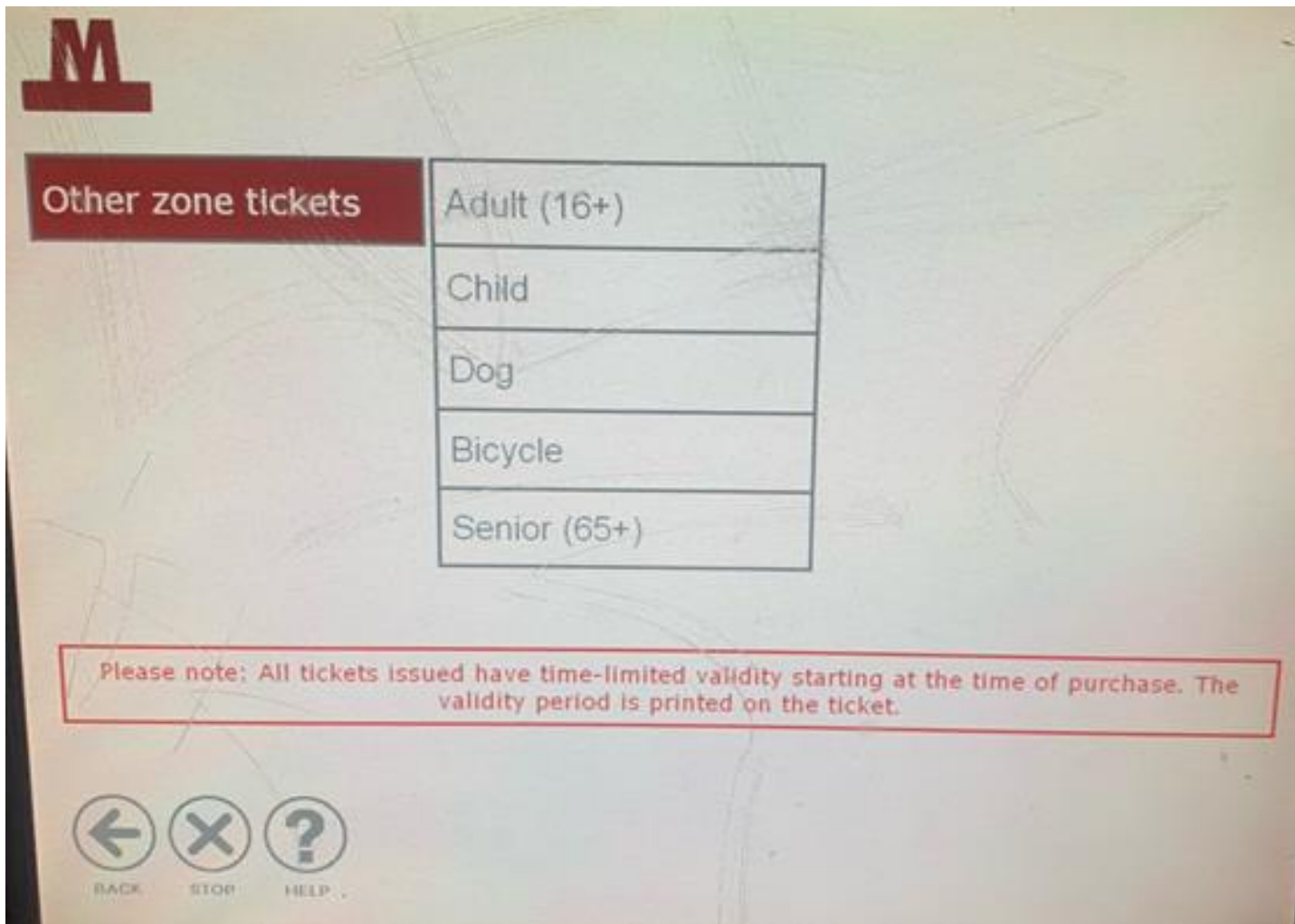
I hope you can reconsider the fine we received and turn it around to a fine of only the cost of the ticket price of a trip from Amager strand to Nørreport. That would leave us with a better feeling of that day.”

Metro Service fastholdt kontrolafgiften den 8. maj 2023 med den begrundelse, at det var påført på engelsk på selve billetten, at den udløb kl. 12:22, hvilket også blev oplyst i købsflow'et:

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

I am very sorry, but we are unable to accommodate a reduction or cancellation of the inspection fee, as it was issued correctly according to our national travel regulations for public transport, which you can find here: [All travel regulations - DOT \(dinoffentligetransport.dk\)](#)

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:



I understand this was a regrettable misunderstanding, but we cannot take good faith or intentions into consideration, unfortunately.

Moreover, it is not possible to take travel history into consideration, as we are obligated to treat all customers equally and in accordance with the rules for public transport.

Like all other means of public transportation in the greater Copenhagen area, the Copenhagen Metro has a self-service system, where the passenger is responsible for being in possession of a valid ticket before boarding the metro. Therefore, we recommend adopting the habit of making sure that you check your ticket before boarding the metro.

Of course, you are always 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.

Considering the above, you will be charged the full amount of the inspection fees, which we request that you pay as soon as possible."

Klageren skrev igen til Metro Service om at annullere kontrolafgifterne, fordi der ikke havde været nogen intentioner om ikke at betale for rejserne:

"I find the outcome very disappointing!

You write that all customers has to be treated equally that's true, but i think in first people need to be treated fairly! And that was not the case. We are being punished very hard for a minor mistake, specially as we do not live in the (wonderful) city of Kopenhagen.

We went on one metro trip and it has been a very awful experience! First there were no trains riding when we wanted to go to the city center and on top of that we receive a (big) fine on the way back.

There was no intention to not pay for tickets and the controller knew that. I was there with my wife an two children why would I deliberately do that on a Holliday trip.

In my opinion the controller should have given us the benefit of the doubt and let us buy the correct tickets with his guidance, that would have made a great difference in our experience with the metro of Kopenhagen.

Therefore I ask you kindly to reconsider this outcome and make the right decision. Please reduce the fine to only the price of the tickets we should have bought."

Metro Service svarede klageren med at fastholde kontrolafgifterne, fordi stewards ikke måtte lade passagererne købe billet efter påstigning:

"I am sorry to read that you do not agree with our decision. Unfortunately, I still cannot cancel your fare evasion ticket as it has been issued correctly and in compliance with the Joint National Travel Regulations, as previously mentioned.

I would like to emphasize that the stewards are instructed to issue inspection fees to any and all passengers who cannot present a valid travel document, and they are not allowed to make exceptions.

All tickets must be purchased before boarding, and any ticket that is purchased after boarding is not valid for that journey. Therefore, the steward cannot allow passengers to subsequently purchase valid travel documents after being met with inspection, as this defeats the purpose of ticketing itself and negates the terms for use of public transportation according to the regulations.

We do not reduce fare evasion tickets for students, pensioners, tourists, nor do we reduce fare evasion tickets based on a passenger's income, civil status or any other measure. While it is true that the police may consider a student's income, people on unemployment benefits, first time offences and the like when issuing fines, we are not able to do so. In a legal sense he has not been issued a 'fine', but rather a 'ticket at an elevated price' called a 'fare evasion ticket'.

## **ANKENÆVNETS BEGRUNDELSE FOR AFGØRELSEN:**

Klageren og hans ægtefælle havde købt to billetter, hvorpå det var trykt på dansk og engelsk, at billetterne var gyldige fra kl. 11:07 til kl. 12:22.

Det er ankenævnets opfattelse, at det fremgik tilstrækkeligt tydeligt både i købsflow'et og af selve billetterne, at de var gyldige indtil kl. 12:22.

Kontrolafgifterne blev udstedt kl. 13:34, hvorfor ankenævnet lægger til grund, at billetterne var udløbet på det tidspunkt, hvor klageren og ægtefællen steg ombord på Metroen.

Herefter blev kontrolafgifterne pålagt med rette.

Ankenævnet finder, at der ikke har foreligget sådanne særlige omstændigheder, at kontrolafgifterne skal frafaldes, selv om Metroen måtte have haft tekniske problemer, der bevirkede, at klageren og ægtefællen måtte gå ind til centrum.

Ankenævnet bemærker, at passagerer i tilfælde af driftsforstyrrelser må undersøge, om der er mulighed for at tage alternativ transport og få udgiften godtgjort af Metro Service.

## **RETSGRUNDLAG:**

Ifølge § 2, stk. 1, jf. § 3 nr. 3 i lovebekendtgørelse 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 rejsebegrensninger ikke overholdes (f.eks. for hvornår cykler må medtages, eller om der er betalt metrotillæg).

## **PARTERNES ARGUMENTER OVER FOR ANKENÆVNEN:**

**Klageren anfører følgende:**

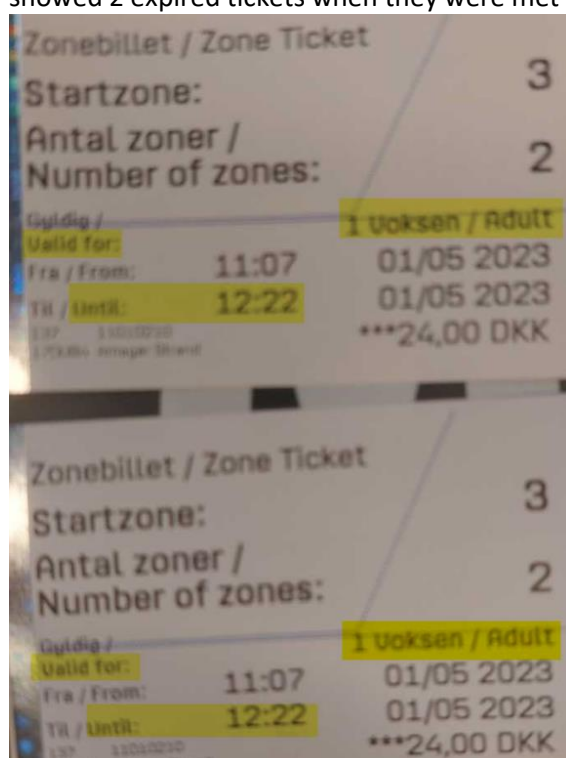
" We went on one metro trip and it has been a very awful experience! First there were no trains riding when we wanted to go to the city center so we had to walk to the city center and on top of that we received a (big) fine on the way back because our tickets were not valid anymore.

There was no intention to not pay for tickets and the controller knew that. He was deliberately targeting us because we are tourists and he treated us very rude. I was there with my wife and two children why would I deliberately do that on a Holliday trip.

In my opinion the controller should have given us the benefit of the doubt and let us buy the correct tickets with his guidance, that would have made a great difference in our experience with the metro of Kopenhagen.

### Indklagede anfører følgende:

" The complainant and his wife received each an inspection fee on the 1<sup>st</sup> of May 2023, at 15:34, as they showed 2 expired tickets when they were met by inspection, after the train had left Rådhuspladsen.



On the tickets they showed the inspector it is clearly stated that those were "**Valid for 1 Adult until 12:22**".

In cases where a valid ticket or card cannot be presented when asked for by one of our inspectors, it must be accepted to pay a fine, which - when using the metro - is 750 DKK for an adult. This basic rule is a pre-requisite for the self-service system that applies to journeys by public transport. Information and rules for using public transportation can be found in the [Joint Nation Travel Regulations](#), which are available on [DOT's website](#) and where it among others are stated:

#### 2.4. Purchase 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.



... and

## 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.

Furthermore, information about having valid tickets or card and the consequences for not having valid travel documentation is stated on the information boards placed at every metro station – when using the underground stations, the information boards are to be found on each level.

On the information boards the below, among others, can be found on “*Rejseinformation / Travel information*”:



### Hav billetten klar Have your ticket ready

Husk at have gyldigt kort eller billet klar inden du står på – du kan ikke købe billetter i metrotoget. Hvis du rejser uden billet, vil du ved kontrol få en afgift på 750 kr.

You must have a valid ticket before boarding – you cannot buy tickets on the metro train. Travelling without a valid ticket will lead to a fine of kr. 750.

### Gyldighed for billetter Validity of tickets

Når du køber billet i metroen, gælder den samtidig i bus og tog i billettens gyldighedsperiode.

When you buy a ticket in the metro, you can also use it in busses and trains within the period of validity.

Zoner	Gyldighedsperioder	Zoner	Gyldighedsperioder	Zoner	Gyldighedsperioder
2	1 time 15 min (hrs)	4	1 time 45 min (hrs)	6	2 timer 15 min (hrs)
3	1 time 30 min (hrs)	5	2 timer (hrs)	7	2 timer 30 min (hrs)
				8	2 timer 45 min (hrs)



### Kontrolafgift Fare evasion tickets

Husk, det er dit ansvar at have en gyldig billet eller kort til rejsen for både dig og dine eventuelle ledsagere, inden du stiger på metroen. Passagerer, der rejser uden gyldig billet eller kort, skal betale en kontrolafgift på 750 kr. Se [dinoffentligetransport.dk](http://dinoffentligetransport.dk) for yderligere information.

Please remember that it is your responsibility to have a valid ticket or travel card for both you and your potential companions before entering the train. Passengers travelling without a valid ticket or card must pay a fare evasion ticket of kr. 750. Go to [publictransport.dk](http://publictransport.dk) for applicable travel rules and penalty fares.

... and on “*Velkommen i Metroen / Welcome to the Metro*” following can be found:



**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.**



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.**

For good measure we have attached the above-mentioned information boards which we have referred.

Finally, the customers are advised not to travel without a valid ticket on sticker placed on every platform screen door at underground stations:



The customer must always make sure to have a valid ticket when boarding the metro, or any other kind of public transport for that matter.

We fully understand that it is a really unfortunate situation the complainant and his wife has found themselves in, but as we want to treat all our customers equally, we do not distinguish whether the action was done in good or bad faith or whether the customer previously has received an inspection fee, has been a user of public transport for many years or not, or is a child, pensioner, tourist, etc. We relate only with the fact that the metro – like all other means of public transportation – operates according to an open system, where it is the customer's responsibility to secure a valid ticket or card before boarding.

Based on the above we find the inspection fees correctly issued and following maintained, as the complainant and his wife has received a service, they had not paid for, and this is why we uphold our claim of 2 x 750 kr.”

På ankenævnets vegne



Lone Bach Nielsen  
Nævnensformand