

AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

- Journalnummer:** 23-0287
- Klageren:** XX
2300 København S
- Indklagede:** Metroselskabet I/S v/Metro Service A/S
CVR-nummer: 21 26 38 34
- Klagen vedrører:** 300 kr. i kompensation for taxaregning i henhold til Rejsegarantien
- Parternes krav:** Klageren gør gældende, at der var driftsstop, og det blev meldt ud i højtalerne, at de ikke vidste hvornår driften ville blive genoptaget, samt at passagererne skulle finde alternative rejseruter
- Indklagede afviser kravet
- Ankenævnets sammensætning:** Nævnensformand, dommer Lone Bach Nielsen
Gry Midttun
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:

Klageren kan ikke få medhold i sit krav.

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 forsikringssselskab om eventuel forsikringsretshjælp.

SAGENS OMSTÆNDIGHEDER:

Klageren benytter Metroen til at rejse fra bopælen ved Vestamager st. til arbejdspladsen ved Orientkaj st. Denne strækning køres normalt på ca. 23 minutter.

Den 31. august 2023 var der et strømudfald fra kl. 08:25, der gjorde, at Metrolinje M1/M2 stod stille. Det blev annonceret i højtalerne, at de ikke vidste, hvor længe driftsforstyrrelsen ville vare, og passagererne blev informeret om at finde alternativ transport.

Ifølge klageren skulle han møde på arbejde kl. 09:00 og ankom til Vestamager st., hvor han checkede ind på sit Rejsekort kl. 08:31. Her opdagede han, at Metroen stod stille, og at der var fyldt med ventende passagerer på perronen. Derfor bestilte han en taxa kl. 08:38 og checkede sit Rejsekort ud kl. 08:43, da der ikke var udsigt til, at Metroen ville køre. Taxaen ankom kl. 08:47, hvorefter han kørte til Kgs. Nytorv st. for at tage Metrolinje M3/M4 videre til Orientkaj st. Taxaen kostede 306 kr.

Klagerens Rejsekorthistorik:



My trips

Date	From	To	Amount DKK
29-08-23 19:03	Orientkaj St.	19:30 Vestamager St.	Period card
30-08-23 08:13	Vestamager St.	08:36 Orientkaj St.	Period card
30-08-23 17:13	Orientkaj St.	18:00 Vestamager St.	Period card
31-08-23 08:31	Vestamager St.	08:43 Vestamager St.	Period card
31-08-23 09:19	Kongens Nytorv St.	09:28 Orientkaj St.	Period card

Metro Service har oplyst, at togdriften blev genoptaget kl. 08:48, hvilket fremgår af deres logbog:

08:48 | **SRA:** PA alle: Vi genoptager nu togdriften men forvent ca. 5 min. forsinkelse
08:25 | **DRG:** Kørestrømsudfald fra Radius på hele fase 3.

Samme dag, den 31. august 2023, anmodede klageren Metro Service om 300 kr. i Rejsegaranti og oplyste, at han havde ventet i 10 minutter, inden han bestilte en taxa:

”

there was no power on M1/M2 metro lines around 08:30 and the announcement said to look out for alternatives as there was no approximate time given when the lines would work again. I waited 10 minutes and ordered a taxi.

Day in question	31/08/2023
Time of day	08:30
Metro station	Vestamager
Metro station	Kongens Nytorv
Attach receipt	Taxi invoice.pdf

Klageren vedhæftede taxaregningen fra Dantaxi:

● Vestamager Metro Station, Ørestads Boulevard 99, 2300 København S	
● Kongens Nytorv, Kongens Nytorv 15, 1060 København K	
🕒 31.08.2023 08:38	
📄 Normal price	334 Kr.
📄 Discount - App booking	-28 Kr.
Your price	306 Kr.

Samme dag, den 31. august 2023, afviste Metro Service klagerens krav med den begrundelse, at driftsforstyrrelsen havde varet under 30 minutter fra kl. 08:25 – 08:49 og dermed ikke opfyldte betingelsen for at udbetale Rejsegaranti:

“I am sorry that you have experienced a delay on your journey with the Metro. We always try to do our very best to maintain and provide as good a service and operational stability as possible. Unfortunately, delays may occur that are unfortunately beyond our control. We always expect to solve the problems very quickly.

The travel guarantee was not activated as the operational problems did not last more than 30 minutes. The problems lasted from 08.25-08.49. We are therefore unfortunately unable to accommodate your wish to receive a refund for your taxi ride.

You can read which conditions must be met to obtain travel guarantee for the metro via the following link [Travel Guarantee for Metro -DOT \(dinoffentligetransport.dk\)](#).”

Herefter indbragte klageren sagen for ankenævnet, hvor han gjorde gældende, at Metrotoget allerede holdt stille, da han ankom til stationen kl. 08:31, og perronen var fyldt med ventende passagerer, at han ventede i omtrent 17 minutter, før han tog et alternativt transportmiddel, som det blev foreslået i højtalerne, samtidigt med at der ikke kunne gives noget tidspunkt for genoptagelse af driften.

Metro Service har under ankenævns sagen korrigeret tiderne for driftstoppet først fra kl. 08:31-08:48 og dernæst fra kl. 08:25-08:48, hvilket fremgår af deres log. Videre har Metro Service gjort gældende, at oplysningen om at finde alternativ transport blev givet til de passagerer, der havde travlt til at vente på, at Metroen genoptog driften, samt at driftstoppet skyldtes et strømudfald, hvilket er uden for Metroens kontrol.

ANKENÆVNETS BEGRUNDELSE FOR AFGØRELSEN:

Det fremgår af Rejsegarantien, at den først træder i kraft efter en forsinkelse på 30 minutter.

Ankenævnet lægger på baggrund af Metroens logbog til grund, at driftstoppet den 31. august 2023 varede i 23 minutter. Herefter kan klageren ikke få godtgjort sin taxaregning op til 300 kr. i medfør af Rejsegarantien.

Spørgsmålet er herefter om Metro Service på andet grundlag er forpligtet til at imødekomme klagerens krav.

Efter dansk rets almindelige erstatningsretlige regler kræves det for at ifalde et erstatningsansvar, at skadelidte (klageren) har lidt et tab, at der foreligger et ansvarsgrundlag hos skadevolder (Metro Service), og at der er årsagssammenhæng mellem handlingen/undladelsen og det opståede tab, samt at tabet var påregneligt for skadevolder. Endelig kan erstatningen nedsættes eller bortfalde ved egen skyld hos skadelidte.

Klageren har oplyst, at han skulle være på arbejde kl. 09:00. Han indfandt sig på Vestamager st. og checkede sit Rejsekort ind kl. 08:31 for at tage Metroen til Orientkaj, hvilket under en planmæssig afvikling af Metrotrafikken tager omtrent 23 minutter. Herefter er det ankenævnets opfattelse, at klageren havde planlagt sin rejse med for lille en margin til uforudsete hændelser.

Ankenævnet bemærker videre, at klageren kun ventede i 7 minutter fra check ind på Rejsekortet, før han bestilte en taxa, og i alt kun ventede i 12 minutter, før han checkede sit Rejsekort ud igen for at tage med taxaen.

På baggrund af det anførte finder ankenævnet, at et driftsstop på 23 minutter grundet et strømudfald sammenholdt med klagerens egen skyld i planlægningen af rejsen indebærer, at han ikke er berettiget til at få godtgjort taxaregningen, uanset at han isoleret set overholdt sin tabsbegrænsningspligt ved at tage taxaen kun til Kgs. Nytorv for at rejse videre derfra med Metrolinje M3/M4 til Orientkaj st.

Det er ankenævnets opfattelse, at det er god kundeservice, når Metro Service oplyser i højtalerne til passagererne, at de ikke ved, hvornår driften kan genoptages, og at passagererne bør finde alternativ transport. Ankenævnet finder videre, at oplysningen dog ikke betyder, at Rejsegarantiens betingelse om mindst 30 minutters forsinkelse dermed sættes ud af kraft.

Det kunne imidlertid være en relevant oplysning til passagererne, at Rejsegarantien først finder anvendelse efter 30 minutters driftsstop.

RETSGRUNDLAG:

- **Rejsegaranti for metroen**
- Hvis Metroen er forsinket med mere end 30 minutter og du må tage en taxa eller leje en delecyckel, et el-løbehjul eller en delebil, dækker vi udgifter op til 300 kroner.

Hvad gik galt? *

Beskriv kort, hvordan du oplevede, at Metroen svigtede, så den var mere end 30 minutter forsinket.

Dato for hændelsen *

Tidspunkt for hændelsen *

Hvilken metrostation har du taget alternativ transport fra? *

Uælg

Hvilken metrostation har du taget alternativ transport til? *

Uælg

For at rejsegarantien dækker, skal du have rejst fra og til en metrostation

Udhæft kvittering *

Scan eller tag et billede af kvitteringen. Al tekst skal fremgå og være til at læse.

 Upload fil

CPR nummer for overførsel til NemKonto

CPR nummer - 10 cifre UDEN bindestreg

Registrerings- og kontonummer

Registrerings- og kontonummer. 14 c

Indtast registrerings- og kontonr.
Udfyld med 0 foran kontonummeret,
hvis det har færre end 10 cifre.

Beløb der ønskes refunderet (dog højst 300,-) *

Rejsegarantien dækker op til 300,-

Navn *

Fornaavn

Efternavn

Adresse *

Postnummer *

By

PARTERNES ARGUMENTER OVER FOR ANKENÆVNET:

Klageren anfører følgende:

”

The metro service has Metro Travel Guarantee, where if the metro service is disrupted for 30 minutes then any alternative transportation used to reach from station A to B would be covered, up to 300 DKK. On 31-Aug-23 there was a major disruption – 2 metro lines didn't work at all around 08:30 in the morning – M1 and M2 due to power outage. There was an announcement made on the metro many times that passengers should look for alternative methods of transportation as it was unclear when the service would resume – such announcements are not made when a disruption is expected to last 5-15 minutes, such announcements are only made when Travel Guarantee applies. I was travelling from station Vestamager to Orientkaj for work, my usual route and I waited 12 minutes – it was around 08:45 and the service was still disrupted, and the announcements didn't change, so I took a taxi from Vestamager to Kongens Nytorv. I didn't take it directly to Orientkaj because M3/M4 lines were working, so I could take a metro ride from Kongens Nytorv to Orientkaj and plus a taxi ride from Vestamager to Kongens Nytorv cost very close to 300 DKK, while a taxi ride from Vestamager to Orientkaj would cost significantly more and hence wouldn't be covered by Travel Guarantee in a fair way.

My Rejsekort travel history shows that I checked-in around 08:31 and my taxi receipt shows that I ordered taxi around 08:38, I left metro at 08:43 when I checked-out and taxi arrived around 08:47, when the metro was still not working. I arrived to Kongens Nytorv by 09:19, when I checked-in again to continue my route to work.

Anyone who needs to be at work by 09:00 understands how stressful it is not to know how long the transportation disruption can last when time on the clock is 08:45.

Metro service has refused me to issue a refund for the taxi ride, because as per them their disruption has lasted 25 minutes and not 30. They mention in their response that their disruption started around 08:25 and was resolved around 08:49.

I would like to **ask them for a refund of 300 DKK** for the taxi ride as:

- When the disruption happened, they said clearly that there's no time expectation on when it would be sorted
- They asked passengers to look for alternative means of transportation.
- I cumulatively was ~17 minutes around the train station and by 08:47 when I left in the car there was no indication that the metro service would resume anytime soon

Indklagede anfører følgende:

” On 31 August 2023 we had an operational stoppage on M1/M2, as the supply of electricity from Radius failed for a shorter period.

Due to this there were no operation between 08:31 and 08:48, after which operations were resumed.

The travel guarantee comes into effect in the event of non-operation for more than 30 minutes - except for situations like this which fall under force majeure, as it was an event that we could not have predicted or prevented.

From the information on DOT it is stated under [Travel Guarantee for Metro](#) partly that the travel guarantee only comes into effect after a 30-minute delay and partly that this does not apply in the event of force majeure (events that the Metro cannot influence, avoid or predict).

Based on the above we find the case correctly handle and rejected.

Hertil har klageren anført:

”1) **Their replies are incoherent** - compare attached file. The first reply they provided showed that the transportation stopped at 08:25 and restarted operations at 08:49, which made it **25 minutes** of disruption.

The second reply shows that transportation stopped at 08:31 and restarted at 08:48, which makes it **18 minutes** disruption. I believe if you would ask them to comment the case one more time then they'll reply something else and the timing will decrease even more. I can tell you that the second reply is not correct as I checked-in at 08:31 (and you can see that from the record of my Rejsekort checkins) and the train was already full of people and stayed at the platform for quite some time.

2) The complaint is not about the internal rules of Metro A/S, the complaint is about that the compensation has to be released in this particular case no matter that the actual disruption lasted just few minutes below the mark of 30 minutes because **it would be fair to do so** and here is why:

- When the disruption happened, Metro A/S made a clear announcement that there's no time expectation on when the disruption would be sorted.
- They asked on the public announcement the passengers to look for alternative means of transportation. If they want to fight against this - let them send the records of announcements they made on the Metro between 08:31 and 08:45.
- I waited enough time on the station (~17 minutes) before taking another mean of transportation and by the time I left the station (08:47) there was no indication that the metro service would resume anytime soon, so there was no indication for me as for their customer that I should cancel my taxi ride and wait until they'll resume their service."

Til dette har Metro Service svaret:

"Whether or not the complainant had experienced a disruption of 18 minutes or 25 minutes this would not have active the travel guarantee.

Travel Guarantee for Metro

If the metro is delayed by **half an hour or longer**, we will refund your expenses if you have to use alternative transportation.

Alternative transportation may be a taxi, renting a bicycle or electric scooter, or use of a shared car service. We will only cover expenses if the alternative transportation is publicly accessible and delivered by a UAT registered company with a CUR-number. Initially, you must pay yourself, but we will refund up to 300 DKK if the conditions for a refund apply.

In this case the disruption was under 30 minutes.

The full text telling about how and when the travel guarantee is activated in the metro and what the customer should do in such case, is stated on the [DOT webpage](#) - as also mentioned in our earlier mail.

Below is clip from the control rooms logbook:

08:48 | **SRA:** PA alle: Vi genoptager nu togdriften men forvent ca. 5 min. forsinkelse
08:25 | **DRG:** Kørestrømsudfald fra Radius på hele fase 3.

The information given was that the customers were encouraged for their own good to find alternative transportation in case they were in a hurry or did not want to wait for the operations to resume. It is correctly that the control room could not give an estimation of when the metro would be operational again, as the stop was due to a power lack and therefore was out of our hands.

We maintain that the requirements for reimbursement according to the requirements of the travel guarantee were not met and the refusal was therefore correct.”

På ankenævnets vegne



Lone Bach Nielsen
Nævnensformand