

## AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

**Journalnummer:** 23-0203

**Klageren:** XX  
København K

**Indklagede:** Metroselskabet I/S v/Metro Service A/S  
**CVR-nummer:** 21 26 38 34

**Klagen vedrører:** Kontrolafgift på 750 kr. grundet manglende registrering af check ind på Rejsekort

**Parternes krav:** Klageren ønsker, at ankenævnet annullerer kontrolafgiften, og gør gældende, at han hørte lyden for korrekt check ind, hvorfor der enten må være en fejl på hans Rejsekort eller på standen

Indklagede fastholder kontrolafgiften

**Ankenævnets sammensætning:** Nævnshoved, 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 11. oktober 2023 truffet følgende

### **AFGØRELSE:**

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

Klageren skal betale beløbet 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.

- 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](http://www.domstol.dk), [www.advokatnoeglen.dk](http://www.advokatnoeglen.dk) og /eller eget forsikringssselskab om eventuel forsikringsretshjælp.

## SAGENS OMSTÆNDIGHEDER:

Klageren rejste den 22. maj 2023 med Metroen fra Kgs. Nytorv st. til Lufthavnen st., hvor der var kontrol af hans Rejsekort kl. 07:48 og kl. 07:51, som det fremgår af Rejsekorthistorikken:

Tidspunkt	opdatering	dato	transaktion		saldo
05-05-2023 05:40:54	05-05-2023 05:59:28	01-05-2023	Check ind	Check ind	77,00
05-05-2023 05:55:48	05-05-2023 06:03:39	01-05-2023	Check ud	Check ud	82,00
22-05-2023 07:48:04	22-05-2023 09:06:17	01-05-2023	Kontrolmærke	Kontrol	0,00
22-05-2023 07:48:32	22-05-2023 09:06:17	01-05-2023	Kontrolmærke	Kontrol	0,00
22-05-2023 07:51:12	22-05-2023 07:57:47	01-05-2023	Kontrolmærke	Kontrol	0,00
28-05-2023 13:42:12	28-05-2023 13:57:44	01-05-2023	Check ind	Check ind	57,00

Da der ikke var registreret noget check ind, blev klageren kl. 07:49 pålagt en kontrolafgift på 750 kr.

Fra den elektroniske kontrolafgift:

```

<FeeDate>2023-05-22T07:49:30.7700000</FeeDate>
<Line>M1/M2</Line>
<StationFrom>Kongens Nytorv</StationFrom>
<StationTo>Lufthavnen</StationTo>
<Adult>true</Adult>
<Child>>false</Child>
<NumberOfBikes>0</NumberOfBikes>
<NumberOfDogs>0</NumberOfDogs>
<Cause>Mgl. Check ind</Cause>
<UnequalZones>>false</UnequalZones>
<PaidCash>>false</PaidCash>
<Amount>750</Amount>
<Cancelled>>false</Cancelled>
<ChangedComment/>
<PaymentReceivedByUser/>
<Note/>
<TicketType>Rejsekort</TicketType>

```

Dette klagede han over den 4. juni 2023 og gjorde gældende, at der var lidt over 200 kr. i saldo på hans Rejsekort, at han havde hørt lyden for korrekt check ind, og at stewarden havde fortalt at det sker, at standen ikke registrerer check ind, selv om passageren har holdt Rejsekortet til standen.

Den 7. juni 2023 fastholdt Metro Service kontrolafgiften, fordi det seneste check ind, der var på hans Rejsekort var den 5. maj 2023:

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

According to Rejsekort's travel regulations, the rejsekort must be correctly checked in before travelling commences. If the card is not checked in, you do not have a valid ticket. Up-to-date travel regulations for Rejsekort, can always be found at [www.rejsekort.dk](http://www.rejsekort.dk).

We have been in contact with Rejsekort A/S, and were given the following information about your registered travels: The last registered action before you were met with ticket inspection is a check out made at the Copenhagen Airport 05- 05-2023 at 05:55 AM.

I have also highlighted the column called 'card sequence number', as this is the column that will show if there are any missing registrations, such as a check in, that has not been properly downloaded in the travel history chart. The numbers are all consecutive, meaning that there are no missing registrations between the check out registration and the inspection mark.

Therefore, the card cannot have been correctly checked in before the fee was issued. You should always make sure that you see "OK. Have a nice journey" in the card reader's display, as you can then be sure that the rejsekort has been checked in correctly, rather than solely relying on the check in noise. This way, you can make sure that your card has been checked in correctly."

Herefter indbragte klageren sagen for ankenævnet, hvor Metro Service har oplyst, at der ikke er registreret fejl på udstyret den pågældende dag.

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

Indledningsvist bemærker ankenævnet, at der ikke, som klageren gør gældende, var 200 kr. i saldo på hans Rejsekort efter det seneste check ud den 5. maj 2023. Saldoen var rettelig 82 kr.

Ankenævnet har tidligere til baggrund anmodet daværende Rejsekort A/S om at få nærmere oplysninger om procesforløbet/transaktionen mellem standeren og Rejsekort, når kortet føres forbi standeren, og til standerens display viser teksten "OK god rejse". Ankenævnet spurgte endvidere, om der forelå undersøgelser eller oplysninger, der kunne verificere Rejsekort A/S' udsagn om, at det hidtil ikke var forekommet, at et Rejsekort var checket korrekt ind, uden af dette var noteret på rejsekortet.

Rejsekort A/S svarede ved at indsende redegørelse om Rejsekortlæsernes virkemåde fra East/West, der leverer Rejsekortsystemet, som har følgende konklusion:

*"The overall conclusion is that the system is designed so that the validator will only show OK if the check in or check out was successful and data written to the card."*

Efter det oplyste fra leverandøren af Rejsekortsystemet er systemet designet, så det ikke skulle kunne lade sig gøre at se teksten "OK" på standeren, uden at dette er registreret på kundens Rejsekort.

Rejsekort A/S gennemførte på foranledning af ankenævnet en analyse af systemet og registrering af data. Rejsekort A/S gennemførte en omfattende og grundig analyse af logning af mere end 30 mio. transaktioner. Analysen viste, at alle transaktioner med Rejsekortet, herunder forsøg på check ind eller check ud, var registreret i Rejsekortsystemet. Der blev imidlertid fundet 341 forekomster af såkaldte "duplicate transactions", hvor den pågældende transaktion ved enten check ind eller check ud ikke var blevet gengivet på selve Rejsekortet, men hvor transaktionen kun var registreret i back office.

Efter resultatet af denne analyse har ankenævnet ikke grundlag for at fastslå, at der kan forekomme transaktioner på klagerens Rejsekort, herunder forsøg på check ind, som ikke er registreret i back office.

Ankenævnet har fra Metro Service modtaget oplysninger fra Rejsekorthistorikken i back office om denne sags konkrete rejse, som bekræfter oplysningerne på klagerens Rejsekort om, at der ikke var checket ind på kortet.

På baggrund af det anførte, har ankenævnet ikke grundlag for at konstatere, at klageren havde checket sit Rejsekort korrekt ind på den pågældende rejse, hvor kontrollen foregik, idet check ind ikke var noteret på rejsekortet eller fremgår af oplysningerne i back office.

Ifølge Rejsekort Rejseregler skal Rejsekort checkes ind ved rejsens begyndelse, og det er passagerens eget ansvar at være checket korrekt ind. Da klageren har anvendt Rejsekortet den 28. maj 2023, har Rejsekortet ikke været fejlbehæftet.

Kontrolafgiften for manglende check ind blev derfor pålagt med rette.

Dette er et område med stor mulighed for omgåelse af passagerens pligt til at sørge for betaling af sin rejse, hvis det accepteres, at der er checket ind på et Rejsekort, uanset at dette ikke er registreret på kortet eller i Back Office.

Ankenævnet bemærker, at passageren kan kontrollere, om pågældende er korrekt checket ind ved at forsøge check ind på ny samme sted og inden for et begrænset tidsrum uden mellemliggende check ud, hvorved standen vil vise teksten "Rejsekortet er allerede checket ind".

Spørgsmålet, om Metro Service skal fremlægge videomateriale, henhører under Datatilsynet og falder uden for ankenævnets virke.

## **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 trafikelskaber 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 rejsebegrænsninger ikke overholdes (f.eks. for hvornår cykler må medtages, eller om der er betalt metrotillæg). 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.

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

### **Klageren anfører,**

at han den 1. maj 2023 [rettelig 22. maj 2023] tog afsted fra sin lejlighed kl. 5 om morgenen for at tage på forretningsrejse til Israel. Ha har kun boet i København i 3 måneder, og har altid rejst med et Rejsekort, som havde en saldo på mere end 200 kr. Da han skulle med Metroen fra Kgs. Nytorv st. checkede han ind og hørte lyden for korrekt check ind. Imidlertid var Rejsekortet ikke checket ind, da han blev kontrolleret senere på rejsen. Stewarden fortalte, at det var sket før, at maskinen giver lyden uden at checke ind. Der må derfor være en fejl på hans Rejsekort eller med standen.

### **Indklagede anfører følgende:**

“In the specific case, the complainant was met by our inspector May 22<sup>nd</sup>, 2023, at 07:49 between Kongens Nytorv station and Airport station. The complainant presented his personal travel card, which, however, had not been checked in. As the complainant had no other form of ticket, the steward issued an inspection 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 an inspection 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 appears both on the information boards at the stations and in the Joint National Travel Regulations, which can be read in their entirety at this link: [Joint-National-Travel-Regulations.ashx \(rejsekort.dk\)](https://www.rejsekort.dk/Regulationer/Information/Information.aspx?ID=1&ID2=1)

In his inquiry to the Appeals Board, the complainant explains that he received the inspection fee on his birthday on 1 May early in the morning.

But the complainant must have written and/or remembered incorrectly because the complainant received the inspection fee on 22 May 2023 which is also what he wrote to Metro in his inquiry to the Customer Service Department on 4 June.

The complainant also informs that he has only lived in Copenhagen for 3 months, that he had money available on the travel card, that he checked in before boarding the train and that there must be an error on either the validator or on the travel card itself.

We have contacted Rejsekort and asked if there was any fault with the equipment at Kongens Nytorv station on 22 May, but this is not the case.

Kongens Nytorv station is a very large station that connects the M1/M2 line with Cityringen (M3/M4). The complainant used the M1/M2 line to get to the Airport.

In that part of the station alone, there are 8 different check-in validators in addition to 2 Rejsekort machines, which in the period between 07:00 and 08:00 in total has had close to 200 transactions.

Since the complainant's travel card has been used after the inspection fee was issued, it can be ruled out that the card itself is faulty.

We have attached a pdf file which shows the complainant's travel history.

For convenience, we have also inserted a section of the history below.

As also appears from the Customer Service employee's reply to the complainant on 7 June, the most recent activity on the travel card before the inspection fee is a check out on 5 May at Copenhagen Airport (in the green frame).

In the orange frame, you can see the electronic control marks set with the steward's PDA (handheld device). The first 2 inspection marks are from steward no. 2xxxxwho is also the steward that issued the inspection fee. The 3rd control mark was put by steward no. 21xxx, probably to assure the complainant that there was no fault with steward no. [udeladt]

The first time the complainant uses his travel card after the inspection fee is at a check-in on 28 May at the Airport station.

We do understand that it is a very unfortunate situation that the complainant has found himself in, but since we want to treat everyone equally, we do not in the case handling take into account whether it may be the first time a passenger receives a fine, whether the lack of presenting a valid travel document is due to a conscious or unconscious action or whether a previous continuous travel pattern can be presented etc.

Naturally, we always investigate whether, for example, a failure to check in is due to technical errors, power cuts, etc. but if this is not the case, the inspection fee will be retained.

Since there have been no errors on the station's equipment and since there are no errors on the travel card itself, it is our assessment that the lack of check-in on 22 May is due to a user error.

We thus maintain that the inspection fee has been imposed rightly and that the subsequent case processing is also in accordance with the rules and therefore request the complainant to pay the inspection fee of 750 kroner.”

### **Til dette har klageren gjort gældende:**

“The transport company attached a pdf file of my travel history and confirmed that I have always acted in accordance with the law and travelled with a valid travel document.

However, the travel company has not provided any CCTV evidence to support their claim that I did not check in using my Rejsekort card.

CCTV will clearly show me enter Kongens Nytorv metro station on 22 May and tap my travel card on the machine in order to check in.

If the CCTV shows that me enter Kongens Nytorv metro station on 22 May and NOT tap my travel card on the machine in order to check in and board a metro train without checking in and paying then I would accept this inspection fee.

However, the CCTV will show that I did tap my travel card on the machine in order to check in, the travel company will confirm that I had money on my travel card, and I am happy to swear under oath that I tapped my travel card and the machine made the usual accepting noise. As you will appreciate and

understand, I was travelling with luggage and the metro train for the airport was just arriving as the CCTV will also confirm.

All I ask is for the transport company to provide the CCTV footage of this.”

### **Hertil har indklagede svaret:**

” Video surveillance of stations and trains is set up for railway and passenger safety reasons and the material may only be viewed by e.g., the police and specially approved personnel. Video surveillance cannot be used to show whether, for example, check-in has been carried out correctly or similar. Regardless, it is not possible to either confirm or deny whether the complainant has checked in correctly or what may have been on the display, as the resolution of the video surveillance, as well as the distance to the validators in general, means that displays cannot be read. We must also inform that all video surveillance material is automatically deleted within 30 days.

Rejsekort A/S has previously, at the behest of the appeal board, carried out an analysis of the system and the registration of data.

Rejsekort A/S carried out a comprehensive and thorough analysis of the logging of more than 30 million transactions. The analysis showed that all transactions with the Rejsekort, including attempts at check-in or check-out, were registered in the Rejsekort system. However, 341 instances of so-called "duplicate transactions" were found, where the transaction in question at either check-in or check-out had not been reproduced on the travel card itself, but where the transaction was only registered in the back office.

This is an area with great potential for circumventing the passenger's duty to pay for their journey, if it is accepted that the travel card has been checked in, regardless of the fact that this is not registered on the card or in the back office.

If the complainant had checked in correctly, that check-in would be read in the travel history. Since no check-in has been registered, it is impossible for the complainant to have received a confirmation sound from the validator and for the display to have read "OK – God rejse". Since there has been no fault with the equipment or on the complainant's travel card, the lack of check-in must be due to incorrect operation on the part of the complainant.

We maintain that the inspection fee has been imposed rightly and maintain our demand for payment of the same.”

På ankenævnets vegne



Lone Bach Nielsen  
Nævnensformand