

AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

Journalnummer: 25-0063

Klageren: XX
2630 Taastrup

Indklagede: Movia
CVR-nummer: 29 89 65 69

Klagen vedrører: Kontrolafgift på 1.000 kr. grundet manglende zone på pendlerkort

Parternes krav: Klageren ønsker, at ankenævnet annullerer eller nedsætter kontrolafgiften, og gør gældende, at han ikke var opmærksom på zonen ved påstigning

Indklagede fastholder kontrolafgiften

Ankenævnets sammensætning: Nævnshoved, dommer Lone Bach Nielsen
Nikola Kiørboe (2 stemmer)
Helle Berg Johansen
Dorte Lundqvist Bang

Ankenævnet for Bus, Tog og Metro har på sit møde den 20. august 2025 truffet følgende

AFGØRELSE:

Movia er berettiget til at opretholde kravet om betaling af kontrolafgiften på 1.000 kr.

Beløbet skal betales til Movia, 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.

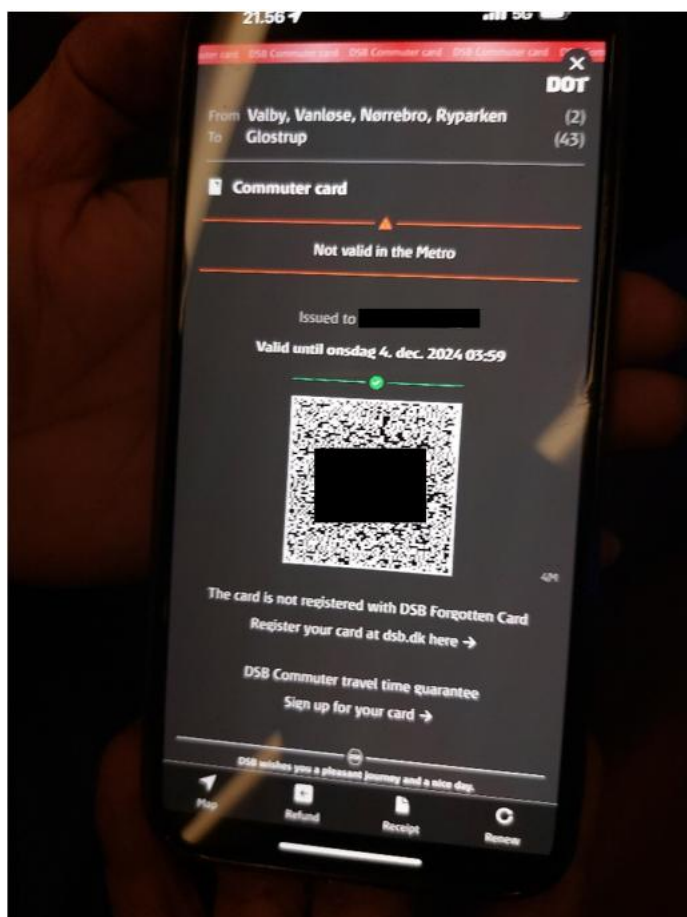
Klageren henvises til at søge yderligere oplysning om eventuel bistand i forbindelse med sagsanlæg fx på www.domstol.dk, www.advokatnoeglen.dk og /eller eget forsikringssselskab om eventuel forsikringsretshjælp.

SAGENS OMSTÆNDIGHEDER:

Klageren rejste den 19. november 2024 med buslinje 1A ved Hvidovre Hospital i zone 33.

Kontrollører steg ombord på bussen kl. 21:48:18 ved stoppestedet, Hvidovre Hospital, Kollegiet, og begyndte at kontrollere billetter. Her fremviste klageren sit pendlerkort i DSB-appen, som var gyldig til zonerne 1, 2, 32 og 42, men ikke til zone 33.

Det fremviste pendlerkort:



Da klagerens pendlerkort ikke var gyldigt i zone 33, blev klageren pålagt en kontrolafgift på 1.000 kr.



Uddrag fra den elektroniske kontrolafgift:

Zone	033
Linje	1A
Bus nummer (Gåseddel)	7317
Køretøjs nummer	
Endelig destination	
Stop ID	7002
Stop	Hvidovre Hospital, Kollegiet
Påstigning	19-11-2024 21:48:18
Udstedt dato/tid	19-11-2024 21:56:32
Stået af	19-11-2024 22:00:15
Passager tal	11
Kontrol spørgsmål stillet	Nej
Kunden har forespurgt chauffør	Nej
Jeg har forespurgt chauffør	Nej
Kort inddraget	Nej
Sprog	Dansk
Årsag	Pendlerkort mangler zone
Bemærkning	Kunden stod på ved Hvidovre hospitalet. Mangler zone 33

Klageren anmodede den 7. december 2024 Movia om at annullere kontrolafgiften, idet han kortfattet skrev:

"I want to forgive the fine"

Movia fastholdt kontrolafgiften den 15. januar 2025 med den begrundelse, at klageren havde rejst uden for gyldighedsområdet på sit pendlerkort.

Derpå indbragte klageren sagen for ankenævnet.

Klageren har gjort gældende, at han steg på bussen ved Hvidovre Hospital, men har ikke nærmere angivet det præcise stoppested.

Movia har oplyst til ankenævnet, at linje 1A betjener flere stoppesteder, som starter med betegnelsen "Hvidovre Hospital", hvilket fremgår af bussens køreplan. Samtlige af disse ligger i zone 33:

Rute	Zone	Stoppesteder
Avedøre St. Naverporten	33	Avedøre St. Enghøj Gymnasium Pottemagerporten Naverporten
Rebslagerporten		Avedørelejren
Avedøre Tværvej Brostykkevej		Avedøre Skole Bredholtvej
Avedøre Havnevej Kettevej Kettegård Alle		Brostykkevej Hvidovre Hospital, Kollegiet Hvidovre Hospital, Hovedindgangen Hvidovre Hospital, Indgang Øst Sløjfen Hvidovre Hospital, Indgang Øst Arnold Nielsens Boulevard
Hvidovrevej Vigerslev Alle		Rosenhøj Hvidovregade Vigerslevvej
Folehaven		Søndervangs Allé Danhaven Hestehaven
Gammel Køge Landevej		Retortvej Folehaven
	2	

ANKENÆVNETS BEGRUNDELSE FOR AFGØRELSEN:

Klageren kunne ikke forevise gyldig rejsehjemmel ved kontrollen i Movias buslinje 1A i zone 33, fordi hans pendlerkort ikke var gyldigt til denne zone.

Kontrolafgiften blev dermed pålagt med rette.

Det er ifølge selvbetjeningsprincippet i de Fælles landsdækkende rejseregler passagerens eget ansvar at have gyldig rejsehjemmel og at kunne fremvise denne på forlangende.

Pligten til at betale kontrolafgift er ikke betinget af, om passageren bevidst har forsøgt at unddrage sig betaling for rejsen, og da dette er et område med oplagt mulighed for omgåelse af reglerne om at betale for hele sin rejse, finder ankenævnet, at der ikke har foreligget sådanne særlige omstændigheder, at klageren skal fritages for kontrolafgiften.

Forbrugerrådets repræsentanter udtaler kritik af kontrolafgiftens størrelse:

"Forbrugerrepræsentanterne finder, at kontrolafgifter over 750 kr. ikke står rimeligt i forhold til forseelsens omfang. Mange brugere af den kollektive transport pålægges kontrolafgifter, selvom de har forsøgt at betale korrekt, men har begået mindre fejl i et selvbetjeningssystem, der bliver mere og mere komplekst. Det er desuden bekymrende, at trafikselskaberne – som monopolliggende virksomheder – selv fastsætter kontrolafgiftens størrelse. Dette giver selskaberne mulighed for at indføre kontrolafgifter, som ville være forretningsskadelige, hvis der var reel konkurrence på markedet. Forbrugerrepræsentanterne indgiver derfor en mindretalsudtalelse vedrørende kontrolafgiftens størrelse. Dette ændrer ikke sagens udfald, men kontrolafgiften bør nedskrives til 750 kr."

RETSGRUNDLAG:

Ifølge lov om trafikkselskaber § 29 kan selskabet udstede kontrolafgift og pålægge ekspeditionsgebyr til en passager, der ikke på forlangende foreviser gyldig rejsehjemmel.

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 1.000 kr. for voksne. Det gælder også, hvis passageren har købt rejsehjemmel via en mobil enhed, der ikke kan kontrolleres, f.eks. hvis denne er løbet tør for strøm eller gået i stykker. Det er passagerens ansvar, at rejsehjemlen er endeligt modtaget på den mobile enhed før påstigning.

I busser, hvor check ind sker om bord, skal check ind ske straks efter påstigning uden unødigt ophold, og inden passageren sætter sig ned.

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 metro-tillæg). 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 følgende:

"I didn't notice the zone and got to the bus. I want to reduce some amount from my fine"

Indklagede anfører følgende:

"Movia maintains that the inspection fee is rightly imposed, and we do so on the grounds that complainant did not present a valid ticket on the inspectors' inquiry in the bus.

On the day in question, complainant boarded the bus in zone 33, but he could not present any valid ticket for this zone. His commuter pass did not have the necessary zone 33 included in which he travelled when meeting the inspector. His commuter card only covered the zones 1, 2, 32 and 43.

Movia refers to the Joint National Travel Regulations § 2.4, where it says that the Danish Travel System is based on self-service exclusively. That means that a customer is responsible for carrying a valid ticket and the customer can present it during the whole travel. A customer must ensure that the ticket is in accordance with requirements; hereby ensure that the commuter pass has the necessary zones to the travel. In this case, it means that complainant is responsible himself for ensure that the of zones on his commuter pass is sufficient to his travel.

2.2. Customer categories

It is the customer's responsibility to have a valid travel document issued for the correct customer category.

2.3. Purchase of travel documents

To be able to travel by train, bus and Metro, the customer must be in possession of a valid travel document.

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.

The customer can extend the journey by purchasing more zones/a new single ticket for the ordinary travel document. The purchase must be made while the ordinary travel document is still valid. The rules for purchase and use of a supplementary single ticket/new single ticket adhere to the general rules for purchase of travel documents. In DOT, the customer can extend the journey by purchasing a one-zone additional single ticket for a Commuter Pass. If the customer is to travel further than one zone, or if the customer is using another travel document, the journey may be extended by purchasing a new single ticket.

2.4.1. Use of single tickets and cards issued on cardboard, paper or via mobile phone *It is the customer's own responsibility to ensure that cardboard or paper tickets (e.g. a Pensioner's card) are correctly issued and are valid for the entire journey and the area of travel. Single tickets or cards are valid for the period and on the line and in the transfer area or the number of zones printed on the single ticket or card. Single tickets and mobile multi-trip cards must also be valid in the furthest (most expensive) zone that the journey passes through. Commuter cards and season tickets are valid for the time period that is printed on them. Commuter cards and season tickets must be valid for all the zones that the journey passes through.*

2.6. Inspection of travel documents

If a valid travel document cannot be presented on request during inspection, it will not be possible to have to get a reduction or cancellation of an inspection fee by subsequent presentation of travel documents.

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.

Inspection fee

On the day in question, the Inspection Team boarded the bus at "Hvidovre Hospitalet, Kollegiet" in zone 33. The inspector stayed on the bus to continuously check new passengers. When the bus reached the stop, "Hvidovre Hospitalet", which was few stops later, the inspector noticed that complainant boarded. At that time the bus was still driving in zone 33.

On the bus route of 1A, we see that all bus stops related to Hvidovre Hospital are located in zone 33.

Rute	Zone	Stoppesteder
Avedøre St. Naverporten	33	Avedøre St. Enghøj Gymnasium Pottemagerporten
Rebslagerporten		Naverporten
Avedøre Tværvej		Avedørelejren
Brostykkevej		Avedøre Skole
		Bredholtvej
Avedøre Havnevej		Brostykkevej
Kettevej		Hvidovre Hospital, Kollegiet
Kettegård Allé		Hvidovre Hospital, Hovedindgangen
		Hvidovre Hospital, Indgang Øst Søjlen
		Hvidovre Hospital, Indgang Øst
Hvidovrevej	2	Arnold Nielsens Boulevard
Vigerslev Allé		Rosenhøj
		Hvidovregade
		Vigerslevvej
Folehaven		Søndervangs Allé
		Danhaven
		Hestehaven
		Retortvej
Gammel Køge Landevej		Folehaven

The fee was issued at 21:56:32 because of the lacking zone 33.

Stop	Hvidovre Hospital, Kollegiet
Påstigning	19-11-2024 21:48:18
Udstedt dato/tid	19-11-2024 21:56:32
Stået af	19-11-2024 22:00:15

Årsag Pendlerkort mangler zone

On examination of the commuter pass through the provider, DSB, we are informed that his commuter card covered the zones 1, 2, 32, and 43, but not 33, where the inspection took place.

Information from DSB:

Kundens pendlerkort var gyldigt i følgende zoner den 19-11-2024:

01-02-32-43

DSB pendler standard [04.11.24 00:00 - 04.12.24 03:59]												
Varetype	Vare	Produkt	Service	Fra	Til	Zoneantal	Tilladte zoner	Gyldig fra	Gyldig til	Passager	Stamkort	Pris
Periodekort	540	DSB pendler standard	Standard	Valby, Vanløse, Nørrebro, Ryparken (1002)	Glostrup (1043)	4	1 2 32 43	04.11.24	03.12.24	Voksen	8128212	840,-

Comments and decision

Movia received the complaint from complainant on the 07.12.2024.

Extract from the appeal case

"I want to forgive the fine."

The system of inspection fees is incredibly important for our company, as we have a percentage of cheating that we need to bring down. When customers, as in this case, travel in zones they have not paid for, it has consequences for our ticket revenue, as we do not get the money we are entitled to. An inspection fee can help to ensure that the customer buys the correct tickets in the future, which a journey from A to B costs.

Movia does not take into consideration, whether the lack of a valid ticket is caused by intentional fraud, overlooking/forgetfulness or otherwise. An inspection fee is issued, when a customer cannot present a valid ticket at the ticket inspection.

It is not a condition for issuing an inspection fee that a passenger has deliberately tried to avoid paying for the journey. A passenger that boards in a foreign zone in relation to the commuter card, must therefore bear the risk of receiving an inspection fee during the subsequent inspection.

When ordering a Commuter Pass in the ticket app, you have the option to search for your journey. The app will show you different combinations of zones based on the different ways to get from A to B. It is important that you choose a Commuter Pass that covers the zones you are travelling in. The app only makes suggestions - you must pay attention yourself, that you only travel in the zones, you have a valid ticket for.

Movia refers to the Joint National Travel Regulations § 2.4, where it says that the Danish Travel System is based on self-service exclusively. That means that a customer is responsible for carrying a valid ticket and the customer can present it during the whole travel.

Movias conclusion

When you travel on commuter passes in zones that are not covered, you will be able to travel in more zones than the intended zones, you have paid for. It is your own responsibility to have a valid ticket for the entire journey.

Movia maintains the inspection fee, as complainant travelled in zone 33, which he had not paid for.

The travel system is based on self-service, and therefore it is the customers own responsibility to ensure that the delivered corresponds to what is requested. We think that there exist sufficient guidelines when purchasing tickets and commuter passes. For example, it is always possible for customers to be orientated in the zone system at the bus stop, on Rejseplanen.dk or on the display inside the bus.

Despite that complainant had already paid for other zones, saving one zone extra is easy if the fee would not have been maintained. The zone system is limited in relation to prices. The more zones you want pre-paid, the more expensive the commuter card will be.

Movia maintains the inspection fee as complainant could not present a valid ticket. In situations where valid tickets cannot be presented upon request, it is expected to pay a fine. This basic rule is a prerequisite for the self-service transport system, which takes place in the Capital area.

We do not find complainant has complied with his duty to ensure a valid ticket on the journey and maintain the inspection fee."

På ankenævnets vegne



Lone Bach Nielsen
Nævnshoved