

## AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

- Journalnummer:** 23-0320
- Klageren:** XX  
2300 København S
- Indklagede:** Movia  
**CVR-nummer:** 29 89 65 69
- Klagen vedrører:** Kontrolafgift på 1.000 kr. grundet manglende straks-billettering
- Parternes krav:** Klageren ønsker, at ankenævnet annullerer kontrolafgiften, og gør gældende, at han var checket ind på sit Rejsekort og blot hjalp en anden kinesisk passager med at oversætte kontrollørens ord, og pludselig udstedte kontrolløren en kontrolafgift til klageren
- Indklagede fastholder kontrolafgiften til klageren
- Ankenævnets sammensætning:** Nævnensformand, dommer Lone Bach Nielsen  
Vibeke Myrtue Jensen  
Torben Steenberg  
Helle Berg Johansen  
Dorte Lundqvist Bang

Ankenævnet for Bus, Tog og Metro har på sit møde den 19. juni 2024 truffet følgende

### **AFGØRELSE:**

Movia er berettiget til at opretholde kravet om klagerens 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-

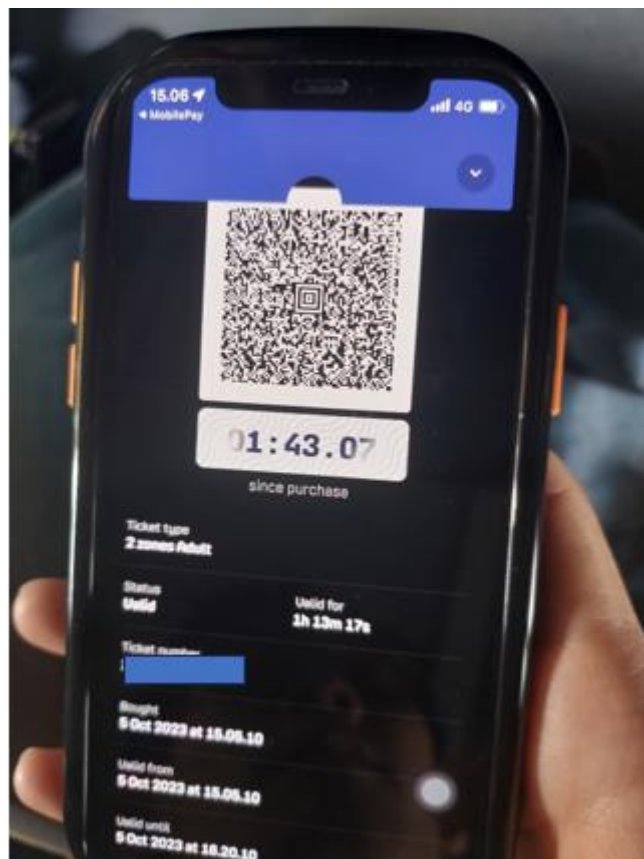
Hver af parterne kan anlægge sag ved domstolene om de forhold, som klagen har vedrørt.

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

**SAGENS OMSTÆNDIGHEDER:**

Ifølge klageren, der er fra Kina og ikke-dansktalende, rejste han med buslinje 31 den 5. oktober 2023, hvor han checkede ind på sit Rejsekort Anonymt. Forinden havde han mødt en kinesisk turist ved samme stoppested, som ikke forstod dansk eller engelsk, og som skulle samme vej som klageren. Hun havde ikke noget Rejsekort, og klageren tilbød, at han kunne tage hende med på sit Rejsekort. Klageren forklarede hende også, at hun kunne købe billet kontant på bussen. Da klageren steg på bussen, opdagede han at standen til check ind var anderledes end standerne på Metro- og togstationer, hvor man kan checke flere rejsende ind på Rejsekort. Den anden rejsende havde ikke bragt kontanter med sig, hvorfor klageren forklarede hende, at hun kunne købe en mobilbillet. Så kom der en kontrollør, der bad om at se billetter, og bragte den anden passager i vanskeligheder. Dette så klageren, og købte en mobilbillet til hende. Klageren oversatte kontrollørens ord, idet kontrolløren bad om at se hendes ID, hvilket hun ikke havde på sig. Men pludselig vendte kontrolløren sig mod klageren og spurgte om hans ID og udstedte en kontrolafgift til ham.

Ifølge Movia var situationen imidlertid den, at kontrollørerne befandt sig ombord på bussen, da klageren steg ombord ved stoppestedet Sønderport, hvor bussen holdt fra kl. 15:04:11 til kl. 15:04:25. Klageren stillede sig bag i bussen og begyndte at købe en mobilbillet. Af rejsekorthistorikken på det pågældende Rejsekort Anonymt fremgår det, at Rejsekortet blev checket ind ved Sønderport kl. 15:04:20, og kontrolmærket blev sat kl. 15:04:49. Ifølge mobilbilletloggen blev købet påbegyndt kl. 15:04:44, og betalingen for billetten blev gennemført kl. 15:05:10. Ifølge kontrolløren foreviste klageren ikke noget Rejsekort i forbindelse med kontrollen, og der blev da heller ikke taget noget billede af et Rejsekort i forbindelse med kontrolafgiften til klageren, som vanligt. I stedet for blev der taget et foto af klagerens mobiltelefon:



Der blev ikke udstedt andre kontrolafgifter til andre passagerer på bussen. Kontrolafgiften til klageren blev udstedt kl. 15:07:46 med årsagen: "Mobilbillet købt efter påstigning."

Zone	001
Linje	31
Køretøjs nummer	3212
Stop nummer	25082
Stop	Amagerbro St.
Tur ID	0
Påstigning	05-10-2023 15:03:07
Udstedt dato/tid	05-10-2023 15:07:46
Stået af	05-10-2023 15:08:06
Passager tal	14
Kontrol spørgsmål stillet	Ja
Kunden har forespurgt chauffør	Nej
Jeg har forespurgt chauffør	Nej
Kort inddraget	Nej
Sprog	Ukendt
Årsag	Mobilbillet købt efter påstigning
Bemærkning	Vi sidder I midten og passagere hopper på et stop efter amagerbro st. Sidder bagest I bussen og køber SMS billet mens bussen kører
Id forevist	Sygesikringsbevis

Klageren anmodede efterfølgende Movia om at annullere kontrolafgiften, hvorefter Movia bad klageren om at indsende en kopi af sit Rejsekort, samtidigt med at de sendte sagen i høring hos kontrolløren med følgende:

**"SPØRGSMÅL**

1. Har kontrolløren set et rejsekort i kontrolsituationen?
2. Var der to personer, der stod på sammen, som kunden beskriver?
3. I så fald - er det den forkerte, der har fået afgiften?
4. Hvad er kontrollørens beskrivelse af kontrolsituationen?"

Kontrolløren svarede Movia samme dag:

”Denne episode husker jeg desværre ikke. Normalt går jeg 100% efter den rigtige og for mig giver det ikke mening at jeg skulle skrive den forkerte. Som sagt kan jeg ikke huske denne situation.”

Movia fastholdt derpå kontrolafgiften til klageren med den begrundelse, at kontrolafgiften var udstedt til rette vedkommende, at det pågældende Rejsekort var anonymt, der er upersonligt og kan benyttes af andre, samt at den købte mobilbillet var købt fra klagerens telefonnummer efter påstigning på bussen:

**”Unfortunately we cannot cancel your inspection fee**

We can understand, that it can be upsetting to receive an inspection fee. Movia’s ticketing system is based on self-service and it is therefore your own responsibility to have a valid ticket for the entire journey and to be able to show it upon request. An inspection fee is issued when a valid ticket cannot be presented at the ticket inspection.

It is important to us to treat all customers equally. At the same time we always take into consideration whether there may be special circumstances that apply in the specific case.

We have investigated the matter and we cannot recognize that you have received an inspection fee that should have been issued to another person.

The rejsekort no. you have sent us is a rejsekort with Anonymous settings and can be used by other people.

We can see that the mobile ticket in the DOT app presented at the ticket inspection is purchased from your phone number.

You have purchased your mobile ticket too late. The rules regarding purchase of mobile tickets are very clear. Your mobile ticket needs to be received prior to entering the bus, according to the Joint National Travel Regulations.

You have not been able to show valid ticketing on the day in question. We have not found that there has been such extraordinary circumstances to excuse you from presenting a valid ticket. It is therefore correct that an inspection fee has been issued.”

**ANKENÆVNETS BEGRUNDELSE FOR AFGØRELSEN:**

I buslinje 31 er der kun indstigning oppe ved chaufføren, hvor standerne til check ind befinder sig.

Check ind af flere rejsende i busser, kan udover linje 5C, kun ske med bistand fra chaufføren, der skal ændre kundeindstillingen på Rejsekortet. Det er ankenævnets opfattelse, at det naturlige ville være, hvis klageren, der ifølge det oplyste havde tænkt sig at checke den anden rejsende med ind på sit Rejsekort, havde spurgt chaufføren til råds om, hvorledes han kunne checke flere rejsende ind, når han opdagede, at standeren ikke havde samme funktionalitet, som ekstra-check ind-standere på Metrostationer.

Ankenævnet lægger til grund, at klageren ikke spurgte chaufføren til råds, men i stedet gik ned og satte sig i bussen, hvor han begyndte at bestille en mobilbillet, således som kontrolløren noterede.

Ankenævnet lægger videre til grund, at dét check ind, der rent faktisk skete på Rejsekortet, blev oplyst til kontrolløren at skulle gælde for den anden passager, der ikke blev pålagt en kontrolafgift.

Der blev i forbindelse med kontrollen taget et foto af klagerens telefon med en mobilbillet købt efter bussens afgang, og klagerens sygesikringsbevis blev forevist til identifikation. Mobilbilletter

skal, for at være gyldig rejsehjemmel, være modtaget på telefonen, inden passagerens påstigning, jf. de Fælles landsdækkende rejseregler pkt. 2.4.2.

Herefter blev kontrolafgiften til klageren pålagt med rette, og på baggrund af den store risiko for omgåelse af pligten til at have modtaget billetten på telefonen inden påstigning, finder ankenævnet, at der ikke har foreligget sådanne særlige omstændigheder, at kontrolafgiften skal frafaldes, uanset at klageren rent faktisk købte en billet.

## **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 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.

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:**

" 05/10/2023 , afternoon I took bus line.31, I used my rejsekort card checked in, then the ticket inspector walked to me, he(Medarbejder ID:[udeladt]) scanned my card, and faced to another passenger near to me. That passenger is a Chinese tourist, she can not speak Danish nor English. I saw her in awkward and cramped, so I temporarily acted as an interpreter.

Inspector ask her ID, I help her answered that she have no ID here, and inspector asked her about passport, and I paraphrased her didn't bring passport. Then, the weird thing happened, the ticket inspector asked for my ID, I showed it to him, and he issued me a ticket. I was sitting in my seat, confused, and didn't understand what was going on. Immediately after, the inspector got off the bus.

I don't understand why the inspector can issue a fine to a passenger who has already checked the ticket. Just because I helped the Chinese compatriot next to me who didn't speak English?

The passenger and I met at the bus station, we had the same destination, and we chatted for a few words in our native languages. She didn't have a rejsekort, and I told her that I had used my rejsekort at metro and

train stations to carry bicycles or other passengers on board, and that I might be able to buy her a ticket. Helping a compatriot in a foreign country is a small effort. I think everyone will be happy to help. I also told her that she can also buy tickets with cash when she gets on the bus. When I got on the bus, I found that the check-in machine was different from the ones in metro stations and train stations. There was no function to add an extra ticket. When I walked into the car, I found her standing at the door of the bus at a loss. It turned out that she didn't bring any change. I said it's okay, I told her she can buy it using her mobile phone too.

Then it was the opening scene, the ticket inspector came to check the tickets. Finally, I saw the ticket inspector was giving her a hard time, so I bought a ticket for her.

My core point is that I did nothing wrong and even did one good thing. But the ticket inspector fined me indiscriminately. This is unreasonable, unfair and completely wrong.

However, Movia thought my rejsekort is anonymous, so they can't prove that I used the card to checked in and not someone else. I have the usage record and top-up proof of this card for two years. If there was a video recording on the bus, it can prove that it was me swiped my card on. Since I have swiped my card to get on the bus, the mobile tickets I bought on my phone have nothing to do with that trip and do not need to be reviewed by the inspector. Therefore, it cannot constitute a reason for inspection fees.

It is unreasonable for Movia to refuse to acknowledge the legitimacy of my rejsekort card checked-in.

Let me reiterate my core point. I have checked my ticket and boarded the bus, and I personally have not committed any fare evasion. So I don't have to pay for the inspection fee.

### **Indklagede anfører følgende:**

" Movia hereby responds to the complaint regarding inspection fee 892134 issued in the bus 31 on the 05.10.2023. We enclose previous correspondence with the customer, as well as attachments.

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 Zhongqiu did not present a valid ticket since his purchase on the mobile device was not completed until after his boarding on the bus. When the complainant boarded the bus, the inspector was placed inside the bus. He noticed that he placed himself in the backside of the bus and started ordering the mobile ticket afterwards.

Movia refers to the Joint National Travel Regulations § 2.4.2. It is the customer's own responsibility to ensure that the travel document has been received on the mobile device before boarding. It is not sufficient that the order has commenced. In this case it means that [klageren] is responsible himself for ensure that the ticket is received before entering the bus.

Movia also 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 traveler must ensure that the ticket is in accordance with requirements; hereby ensure that a mobile ticket fits with the customer category and the valid time.

## 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.*

### 2.4.2. In particular concerning use of mobile products (delivered via text message or app)

*It is the customer's responsibility to ensure that the travel document has been received on the mobile device before boarding. It is not sufficient that the order has commenced.*

## 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 Amagerbro St. at 15:03:07. The inspectors noticed that complainant boarded the bus at the next stop Sønderport where the bus was stopping from 15:04:11 to 15:04:25.

The inspector wrote a note during the issue, that the complainant had boarded one stop after Amagerbro st. and that the complainant should have ordered the SMS ticket while sitting in the back of the bus.

<b>Bemærkning</b>	Vi sidder I midten og passagere hopper på et stop efter amagerbro st. Sidder bagest I bussen og køber SMS billet mens bussen kører
-------------------	--

The inspection fee is issued at 15:07:46 for the reason "Mobile ticket received after boarding" – "Mobilbillet købt efter påstigning".

<b>Årsag</b>	Mobilbillet købt efter påstigning
--------------	-----------------------------------



Stop	Amagerbro St.
Tur ID	0
Påstigning	05-10-2023 15:03:07
Udstedt dato/tid	05-10-2023 15:07:46
Stået af	05-10-2023 15:08:06

The following tour overview shows that bus stop where the inspectors boarded, Amagerbro St. and Sønderport where complainant should have boarded the bus.

#	Stoppested	Stopindikator	Pl. ank.	Pl. afg.	Obs. ank.	Obs. afg.
14	Holmbladsgade (1954)	● ●	14:57	14:57	14:57:51	14:58:34
15	Lyneborggade (1955)	● ●	14:58	14:58	14:59:36	14:59:45
16	Jemtelandsgade (45450)	● ●	14:59	14:59	15:00:25	15:00:25
17	Amagerbro St. (25082)	● ●	15:01	15:01	15:03:09	15:03:30
18	Sønderport (667)	● ●	15:02	15:02	15:04:11	15:04:25
19	Christmas Møllers Plads (668)	● ●	15:03	15:03	15:05:04	15:05:14
20	Christianshavn St. (27524)	● ●	15:07	15:07	15:07:09	15:07:09

When looking the specific process of the order, we see that the initiation of the ticket was made after the bus had left the stop. The process of the purchase began at 15:04:44. Since the bus departed from Sønderport at 15:04:25 and the ticket purchase began at 15:04:44 shows that the ticket was bought after boarding.

The data from both the GPS and ticket system supports the note made by the inspector about the complainant ordering the ticket after boarding the bus.



## Billethistorik

Status	Handling	Tidspunkt
Gennemført	Ordre modtaget	05 Okt 2023 - 15:04:44
Gennemført	Betaling gennemført	05 Okt 2023 - 15:05:10
Gennemført	Betaling autoriseret/reserveret	05 Okt 2023 - 15:05:10
Gennemført	Billet åbnet	05 Okt 2023 - 15:05:18
Gennemført	Download af billet bekræftet	05 Okt 2023 - 15:05:18

We can see in the order history that the ticket was bought from the complainants DOT app profile.

[Klagerens navn udeladt]

It is very clear for any customer to know when a ticket is received. If any issues occur when purchasing the ticket, there will be either an error message or an image of the screen trying to connect. In most error messages a warning appears not to start the journey until the purchase has been completed.

For all cases, the rule about receiving the mobile ticket before boarding is important, as it would negatively affect the cheating rate if passengers were allowed to receive the ticket on the bus, despite of any disruptions such as server or payment issues. Thereby, you would have the option to wait to complete the purchase of your ticket if you were to see an inspector, and during the ticket inspection you would always be able to shift the blame to circumstances for which you yourself are responsible.

This is among others one of the main reasons why a customer always must ensure to carry the actual ticket before the boarding is proceed.

### **2.4.2. In particular concerning use of mobile products (delivered via text message or app)**

*It is the customer's responsibility to ensure that the travel document has been received on the mobile device before boarding. It is not sufficient that the order has commenced.*

## **Comments and decision**

### Extract from the appeal case.

*"I used my rejsekort card checked in, then the ticket inspector walked to me, he (Medarbejder ID: [udeladt]) scanned my card, and faced to another passenger near to me. That passenger is a Chinese tourist, she can not speak Danish nor English. I saw her in awkward and cramped, so I temporarily acted as an interpreter."*

On the travel history of the claimed Rejsekort of the complainant, we see that the card was checked in at 15:04:20 where the bus was stopping at Sønderport. Furthermore, we also see that the inspector scanned the card at 15:04:49.

54	05-10-2023 15:04	Linje : 31 Sønderport	15:22	Linje : 31 Vesterport St.	-18,00	92,40
Aktivitet	Type	Dato / Tid	Sted			
<a href="#">143</a>	Check ind	05-10-2023 15:04:20	Sønderport			
<a href="#">143</a>	Kontrolmærke	05-10-2023 15:04:49	Toftegårds Plads/Apoteket			
<a href="#">144</a>	Check ud	05-10-2023 15:22:00	Vesterport St.			

As soon as we received this information in the complaint from the customer, we asked the inspector in question about the incident. These questions below are asked few days after the incident.

### SPØRGSMÅL

1. Har kontrolløren set et rejsekort i kontrolsituationen?
2. Var der to personer, der stod på sammen, som kunden beskriver?
3. I så fald - er det den forkerte, der har fået afgiften?
4. Hvad er kontrollørens beskrivelse af kontrolsituationen?

We asked the inspector if he has seen a Rejsekort in the situation, whether there were two persons, if a wrong person could have received the fee and the inspector's description of the incident.

On the answer of the inspector, it appears that none of the complainant's claims can be confirmed. For the inspector it would not have made any sense to issue a fee to a wrong person.

Denne episode husker jeg desværre ikke. Normalt går jeg 100% efter den rigtige og for mig giver det ikke mening at jeg skulle skrive den forkerte. Som sagt kan jeg ikke huske denne situation.

We can confirm that only [klageren] received a fee on the specific bus.

2023-10	6224067288	[redacted]	14	0	2023-10-05 15:03:07	2023-10-05 15:08:06	[redacted]	31	25082	Amagerbro St.	001
---------	------------	------------	----	---	------------------------	------------------------	------------	----	-------	---------------	-----

*"Inspector ask her ID, I help her answered that she have no ID here, and inspector asked her about passport, and I paraphrased her didn't bring passport. Then, the weird thing happened, the ticket inspector asked for my ID, I showed it to him, and he issued me a ticket. I was sitting in my seat, confused, and didn't understand what was going on. Immediately after, the inspector got off the bus.*

*I don't understand why the inspector can issue a fine to a passenger who has already checked the ticket. Just because I helped the Chinese compatriot next to me who didn't speak English?"*

Movia relates to what are the facts in the specific case. We confirm that the forwarded card was checked in correctly while the bus was stopping at Sønderport.

We adhere to:

1. First and foremost, no Rejsekort has been presented to the inspectors during the ticket inspection of [klageren]. The inspector cannot confirm it and there has not been taking any pictures of a Rejsekort. Please note, that the inspector was already on the bus and the ticket inspection took place shortly after [klageren]'s boarding.
2. Movia refers to that it is not possible to subsequently submit anonymous tickets such as an anonymous rejsekort, as these tickets and cards are not personal tickets and can be handed over to other people. You have to be able to show your valid ticket to the ticket inspector during inspection. Therefore, even if it is the complainant's own card and that the card was checked in, Movia cannot reduce or cancel the fee, since we need to connect the ticket to the customer. If this was not the case, it would be a way to evade ticket purchase, since you could be handed another person's card or ticket, which you had not paid for yourself.
3. We do not find it reasonable that the complainant would buy a ticket at all if he also had checked in shortly before. The card is checked in at 15:04:20 and the purchase of the mobile ticket began at 15:04:44.
4. Noone else on the bus received a fee, The complainant was the only passenger on the bus who received an inspection fee.

*"She didn't have a rejsekort, and I told her that I had used my rejsekort at metro and train stations to carry bicycles or other passengers on board, and that I might be able to buy her a ticket. Helping a compatriot in a foreign country is a small effort."*

Movia refers to the joint national travel regulations § 2.4.2 about mobile products, in which it is said that a travel document is only valid on the phone number to which it was ordered.

***2.4.2. In particular concerning use of mobile products (delivered via text message or app)***

*The travel document is only valid for the phone number to which it was ordered and may not be forwarded and/or shared.*

Furthermore, we point out that still no Rejsekort was present during the inspection of the complainant, and that the ticket presented by the complainant was in fact a mobile ticket, which was purchased after the complainant boarded the bus.

Movias conclusion

Movia finds that there is clear evidence of that [klageren] did not have a valid ticket during his travel. Data and the note from the inspector indicate that [klageren] initiated his purchase of mobile ticket while sitting in the bus.

Movia has no documentation that the Rejsekort belonged to the complainant, since it is a Rejsekort with anonymous settings.

The complainant claims regarding a second passenger, who allegedly should be the right recipient of the inspection fee is unconfirmed and implausible.

Movia does not find that we can take the responsibility of the too late bought mobile ticket, that [klageren] received on the day in question. It is always the customers own responsibility to ensure that the final ticket is received prior to boarding. Only when having the exact ticket, a customer can board the bus.

Movia maintains the inspection fee since [klageren] 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.

It is an area with a high risk of circumvention for payment of the journey if it is accepted that a mobile ticket can be received after boarding. It is an area where it is easy to save money if you have the possibility to only complete a placed order if noticing an inspector. We expect, before choosing to travel, that you have assessed yourself whether you can take responsibility for the ticket purchase or not; hereby have assessed yourself with the fact that you can only board in case of an actual ticket.

Based on the circumstances and the complaint from [klageren], Movia does not find that we can take the responsibility for the invalid ticket presented on the day in question. As a customer in the public transport, a customer must always ensure before boarding that the ticket is in accordance with the requirements.”

På ankenævnets vegne



Lone Bach Nielsen  
Nævnensformand