

AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

- Journalnummer:** 24-0408
- Klageren:** XX
2300 Kbh. S
- Indklagede:** Metroselskabet I/S v/Metro Service A/S
CVR-nummer: 21 26 38 34
- Klagen vedrører:** Kontrolafgift på 750 kr. grundet rejse uden for sit pendlerkorts gyldighedsområde
- Parternes krav:** Klageren ønsker, at ankenævnet annullerer eller nedsætter kontrolafgiften, og gør gældende, at hendes telefon var løbet tør for strøm, så hun ikke kunne forevise sit pendlerkort, samt at hun var optaget af akademisk arbejde, og derfor kom til at køre for langt. Hun blev forsikret af stewarden om, at kontrolafgiften ville blive frafaldet
- Indklagede fastholder kontrolafgiften
- Ankenævnets sammensætning:** Nævnensformand, dommer Lone Bach Nielsen
Vibeke Myrtue Jensen
Rolf Høymann Olsen
Helle Berg Johansen
Dorte Lundqvist Bang

Ankenævnet for Bus, Tog og Metro har på sit møde den 20. februar 2025 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, www.advokatnoeglen.dk og /eller eget forsikringselskab om eventuel forsikringsretshjælp.

SAGENS OMSTÆNDIGHEDER:

Klageren er udenlandsk studerende i Danmark og har et pendlerkort til zonerne 01 og 02.

Ordre- og billetdetaljer

Se billetdetaljer samt kundeinformation på købstidspunktet. Refusion, gensendelse af kvittering samt annullering af den aktuelle billet er også muligt.

Ordreinformation

Billetinformation

Billet information

BILLETTYPE: Pendlerkort	PASSAGERTYPE: Voksen
STAMKORTNUMMER: [REDACTED]	STARTZONE: IKKE OPLYST
VARENUMMER: 540	SLUTZONE: IKKE OPLYST
BILLETSTATUS: Udløbet	ANTAL GYLDIGE ZONER: 2
BILLET GYLDIG FRA: 27 Sep 2024 - 00:00:00	GYLDIGE ZONER: 1001, 1002
BILLET GYLDIG TIL: 28 Okt 2024 - 03:59:59	SØGEMETODE FRA: Amagerbro St. (Metro)
PRIS: 527,00 kr.	SØGEMETODE TIL: Stop: Frederiksberg St. (Metro)

Billethistorik

Status	Handling	Tidspunkt
Gennemført	Ordre modtaget	24 Sep 2024 - 08:21:42
Gennemført	Betaling gennemført	24 Sep 2024 - 08:22:43
Gennemført	Download af billet bekræftet	24 Sep 2024 - 08:22:49
Gennemført	Billet åbnet	24 Sep 2024 - 08:22:49

Den 2. oktober 2024 arbejdede klageren sammen med nogle medstuderende og anvendte sin telefon hertil. Da hun skulle med Metroen hjem, var telefonen løbet tør for strøm.

Hun satte sig i Metroen og studerende videre, og var derfor ikke opmærksom på, at hun var kørt for langt og ind i zone 03, som hun ikke havde på sit pendlerkort.

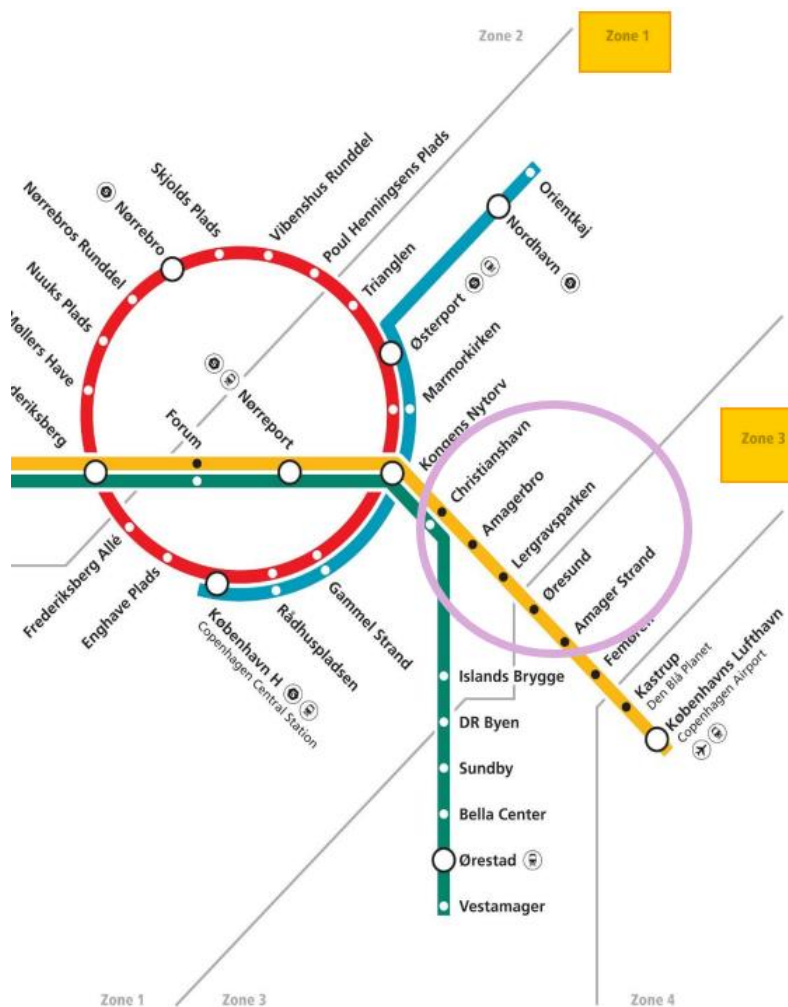
Ved kontrol kunne klageren ikke forevise nogen rejsehjemmel, og hun blev herefter pålagt en kontrolafgift på 750 kr. efter, at Metroen havde forladt Øresund st.

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<StationTo>Amager Strand</StationTo>
<Adult>>true</Adult>
<Child>>false</Child>
<NumberOfBikes>0</NumberOfBikes>
<NumberOfDogs>0</NumberOfDogs>
<Cause>Løbet tør for strøm</Cause>
<UnequalZones>>false</UnequalZones>
<PaidCash>>false</PaidCash>
<Amount>750</Amount>
<Cancelled>>false</Cancelled>
<ChangedComment/>
<PaymentReceivedByUser/>
<Note/>
<TicketType>Periodekort</TicketType>

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Stewarden udstedte kontrolafgiften til Amager Strand st., som klageren skulle stige ad på og tage Metroen retur til Amagerbro, som var hendes oprindelige destination.



Klageren anmodede Metro Service om at annullere kontrolafgiften, da hun havde pendlerkort og hendes telefon var løbet tør for strøm:

I received a inspection, but I have bought a month ticket in dot app for my phone out of charge i can't show it at that time. I want a cancel of the inspection fee and other negative records.

Metro Service fastholdt kontrolafgiften, da klageren befandt sig uden for sit pendlerområde på kontroltidspunktet:

I am very sorry to inform you that we are unable to accommodate a reduction or cancellation of the inspection fee.

Like all other means of public transportation in the greater Copenhagen area, the Copenhagen Metro has a self-service system and it is your responsibility to ensure that your commuter pass has the correct zones and that it is valid for the entire journey.

I understand that your mobile phone ran out of battery and that you therefore were unable to present your commuter card from DOT app.

However, I have investigated your commuter card in DOT app and I have found that your commuter card was not valid for your travel in zone 03.

You were subject to our ticket inspection as the metro left Øresunds station in zone 03, heading towards Amager Strand in zone 03. Your commuter card that you were unable to present, is valid for zone 01 and 02, but does not include zone 03.

This means that you did not have a valid ticket for the area you were in, and the inspection fee was correctly issued.

Of so that you would like to extend your commuter pas with a zone, you must purchase an extensional ticket for your travel. Further information can be found here: [Extension ticket for a longer journey \(dinoffentligetransport.dk\)](https://dinoffentligetransport.dk)

On all of our platforms and in all of our trains, you will find zone maps covering the entire system. Here you can see whether your pass is valid for the area you want to travel to, or how many extra zones you need for your journey, should your commuter pass be insufficient.

Of course, you are always welcome to contact the steward on the station, or use the yellow call points on all stations to contact our control room if you have questions. 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.

If so, that your mobile phone is out or about to run out of battery, you must purchase an alternative ticket for your travel. Tickets can be purchased at one of our ticket vending machines, which is installed at all of our metro stations.

Since it has been found that you commuter pass does not include zone 03, we are unable to accommodate a reduction of the inspection fee, unfortunately.

Klageren skrev flere gange til Metro Service, at hun ikke havde handlet bevidst eller ville snyde og kun havde befundet sig i Danmark i 1 måneds tid. Metro Service fastholdt, at klageren havde rejst i zone 03, og klageren indbragte sagen for ankenævnet.

ANKENÆVNETS BEGRUNDELSE FOR AFGØRELSEN:

Klagerens pendlerkort var gyldigt til zonerne 01 og 02, men den 2. oktober 2024 rejste hun for langt og kom ind i zone 03, hvor hun blev kontrolleret, og heller ikke kunne forevise sin telefon, der var løbet tør for strøm.

Herefter blev kontrolafgiften til klageren pålagt med rette, og da det ikke er en betingelse for at pålægge en kontrolafgift, at passageren bevidst har søgt at unddrage sig at betale fuld pris for rejsen, finder ankenævnet, at der ikke har foreligget sådanne særlige omstændigheder, at kontrolafgiften skal nedsættes eller frafaldes.

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 følgende:

” . I am writing to formally file a complaint against the handling of my case by the metro service regarding a metro fine i received, which I believe was unjust given the circumstances. As an international student newly arrived in Denmark, I have faced challenges adjusting to the local language and systems. Unfortunately, this

led to an unfortunate incident while using the metro system, which I feel has been met with a lack of empathy from the railway company.

On October 2, after a full day of classes and studying at the library near Frederiksberg, I boarded the metro to return home to Amagerbro. Due to my commitment to group work with classmates, my phone battery ran out during the journey, which made it impossible to display my monthly pass when the ticket inspector approached. To complicate matters further, I unintentionally traveled past my stop and entered Zone 3. I was preoccupied with academic matters and unfamiliar with the Danish language and the metro system.

The ticket inspector assured me that I could file for a refund after explaining my situation, and provided me with a ticket to return to my correct zone (Amagerbro). Trusting this information, I followed the instructions. However, after submitting my appeal to the railway company, my case was dismissed despite the fact that I had submitted solid evidence proving my original intent to travel only to Amagerbro, including my travel itinerary and messages exchanged with classmates that night.

I fully recognize the importance of adhering to the rules. However, this was an honest mistake made due to language barriers, phone battery issues, and my unfamiliarity with the zones. Rather than acknowledging these mitigating factors, the railway company's response has lacked understanding and flexibility, which has left me feeling frustrated and unfairly treated.

I am appealing to your department as I believe that a more humane and considerate approach should be taken in such cases, especially when it involves new international residents trying their best to adapt to life in Denmark. I kindly request that you review my case and assist in facilitating a more compassionate resolution to this issue.

Thank you for your time and attention to this matter. I look forward to hearing from you.

Ønsker at opnå: I am a student with limited financial resources, and the amount of the fine represents more than a week's worth of my living expenses. As a result, paying this fine would cause significant financial hardship for me. Given my circumstances, I am kindly requesting that the fine be reduced or waived."

Indklagede anfører følgende:

"

In the specific case, the complainant was met by our inspector October 2nd, 2024, at 20:58 after the train left Øresund station (zone 03) in direction Airport.

The complainant informed the steward that her phone had run out of power and that she therefore could not show her digital monthly pass.

Since the complainant did not have any other form of travel document, an inspection fee was issued in accordance with the applicable regulations.

In the control situation, the complainant also explained that she would actually have got off at Amagerbro station and therefore the steward issued the inspection fee so that the complainant could use the fee to travel in the opposite direction back to Amagerbro station. See below:

Kontrolafgiftsnr.: 01296657-41 Inspection fee no.:								
Day	Month	Year	Hour	Time	Board ID			
02	10	24	22	00	20326			
Fra From					Til To			
OSV					AMS - AMB			
Årsag Cause					Vigtige oplysninger for din fortsatte rejse			
mobil - skram					<p>Kontrolafgiftens indbetalingskort er gyldig som enkeltbillet til den fortsatte rejse. Billetten gælder kun til en enkelt ubrudt rejse med metro til den station, som den rejsende har oplyst ved udstedelsen. Omretning er dog tilladt. Ved kontrolafgift udstedt til børn (under 16 år) gælder, at kontrolafgiften kan anvendes som rejsepenge i både busser, tog og metros fra tidspunktet for udstedelsen og resten af billettagnet.</p> <p>Important information about your continued journey The payment slip for this inspection fee is valid as a single fare ticket for your continued journey. The inspection fee is only valid for one continued journey with the Metro, to the station mentioned as your destination when the inspection fee was issued. If the inspection fee is issued to a child (under the age of 16), it is valid as a ticket for buses, trains and Metro.</p>			
Kroner					Dre			
Inft Total					750 00			

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 amounts 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](https://www.transportmyndigheden.dk/da/om-transportmyndigheden/forordning-om-transport)

When the complainant contacted Metro Service to have the inspection fee cancelled, the case was investigated.

In connection with the case processing, it turned out that the complainant's monthly pass was not valid for travelling in zone 03 where the ticket inspection took place, and therefore the inspection fee was maintained.

Documentation for the complainant's monthly pass and its area of validity is attached as a PDF file and is also included here for convenience: [vist ovenfor]

In her second inquiry to Metro Service, the complainant explained that it had been her intention to get off the train at Amagerbro station (which is located in zone 01) but that she was both confused and so preoccupied with a school assignment that she forgot to get off the train.

We are surprised that the complainant did not just get off at the next station (Lergravsparken, zone 01), which would still have been within the validity range of her monthly pass but traveled 2 more stations further into zone 03.

In her inquiry to the Appeals Board, the complainant claims that the steward assured her that if she simply contacted the customer service department, her inspection fee would be 'refunded'.

However, in the control situation, the complainant did not present her monthly pass, which was only valid for travel in zones 01 and 02, she simply explained to the steward that her phone had run out of power. If the complainant's monthly pass had been valid for travel in zone 03, the inspection fee would have been reduced to DKK 125, but this is not the case.

If the complainant had had power on her phone and she had presented her monthly pass in the control situation, she would have received an inspection fee for traveling outside the pass's validity area.

Although we understand that this is an unfortunate situation for the complainant, the requirement for a valid travel document applies to everyone, regardless of whether you are a child or adult, student or senior, resident or tourist and regardless of income.

Anyone who is met by ticket control and cannot present a valid card or ticket must pay an inspection fee, so also in this case.

We maintain that the inspection fee has been imposed correctly and that the subsequent decision in the customer service department is also in accordance with applicable rules and therefore maintain our demand for payment of inspection fee 01296657 of DKK 750.”

På ankenævnets vegne



Lone Bach Nielsen
Nævnensformand