

## AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

<b>Journalnummer:</b>	2018-0182
<b>Klageren:</b>	XX 2300 Kbh. S
<b>Indklagede: CVRnummer:</b>	Metroselskabet I/S v/Metro Service A/S 21 26 38 34
<b>Klagen vedrører:</b>	Kontrolafgift på 375 kr. grundet manglende check ind af hans hund samt stewardens adfærd
<b>Parternes krav:</b>	Klageren ønsker kontrolafgiften annulleret Indklagede fastholder denne
<b>Ankenævnets sammensætning:</b>	Nævnensformand, landsdommer Tine Vuust Rasmus Markussen Torben Steenberg Bjarne Lindberg Bak Helle Berg Johansen

Ankenævnet for Bus, Tog og Metro har på sit møde den 12. december 2018 truffet følgende

### **AFGØRELSE:**

Metroselskabet I/S v/Metro Service A/S er berettiget til at opretholde kravet om klagerens betaling af kontrolafgiften på 375 kr.

Klageren skal betale beløbet til Metroselskabet I/S v/Metro Service A/S, som 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 på [www.domstol.dk](http://www.domstol.dk), [www.advokatsamfundet.dk](http://www.advokatsamfundet.dk) og /eller eget forsikringssselskab om eventuel forsikringsretshjælp.

## SAGENS OMSTÆNDIGHEDER:

Klageren skulle den 23. maj 2018 have sin hund med ombord på metroen. Ifølge klageren checkede han både sig selv og sin hund ind på sit rejsekort, inden de steg på metroen.

På strækningen mellem Islands Brygge st. og Sundby st. var der kontrol af klagerens rejsehjemmel, hvor denne kl. 12:54 blev pålagt en kontrolafgift på 375 kr. for manglende check ind af hunden. Stewarden noterede, at klagerens tidligere havde haft problemer med at checke hunden ind, og at han var meget sur.

Klageren anmodede den 23. maj 2018 Metro Service om at annullere kontrolafgiften og anførte til støtte herfor, at han var meget omhyggelig med at checke ind, fordi han før havde fået kontrolafgifter, fordi han ikke havde checket sin hund korrekt ind, at han var i god tro om at både han og hans hund var checket ind, samt at systemet måtte være fejlbehæftet.

Metro Service fastholdt den 1. juni 2018 kontrolafgiften med henvisning til selvbetjeningsprincippet, samt, at de ikke kunne kommentere på tidligere rejser, og at de ikke kunne medtage klagerens gode tro i sagens vurdering.

Metro Service har indsendt logs, der viser, at kun klageren var checket ind på rejsekortet på kontroltidspunktet, samt at check ind-standeren ikke var fejlbehæftet på tidspunktet.

Date/Time	Reception date	Accounting period	Operation type	Transaction type	Card engraved ID
22/05/2018 14:48:38	22/05/2018 15:06:27	01/05/2018	Check in	Check in	308430
22/05/2018 14:57:36	22/05/2018 15:06:38	01/05/2018	Check out	Check out	308430
22/05/2018 23:44:59	23/05/2018 00:18:07	01/05/2018	Check in	Check in	308430
23/05/2018 00:03:08	23/05/2018 01:21:00	01/05/2018	Check out	Check out	308430
23/05/2018 09:55:58	23/05/2018 10:07:09	01/05/2018	Check in	Check in	308430
23/05/2018 09:55:58	23/05/2018 10:07:09	01/05/2018	Check in	Check in	308430
23/05/2018 10:35:58	23/05/2018 11:03:10	01/05/2018	Check out	Check out	308430
23/05/2018 12:34:11	23/05/2018 12:47:10	01/05/2018	Check in	Check in	308430
23/05/2018 12:34:11	23/05/2018 12:47:10	01/05/2018	Check in	Check in	308430
23/05/2018 12:47:10	24/05/2018 14:43:18	01/05/2018	Inspection mark	Inspection	308430

Reg. udbr. dato/tid	Modtaget, system dato/tid	Rejseperiode	Handling	Transakt.type	Kortnr.	Kortsk.nr.	Rejsekv.nr.	Lokation	Udbr./-nr.	Produkttype	Såld	E-ung ændring	Transakt.bet.	Penalbeting
23-05-2018 12:02:14	23-05-2018 12:16:16	01-05-2018	Check ind	Check ind	308430 202	2	204	Forum St.	VAL_21002 - 13F802	EasyTrip	315,40	0,00	0,00	0,00
23-05-2018 12:02:14	23-05-2018 12:16:16	01-05-2018	Check ind	Check ind	308430 202	2	205	78 Forum St.	VAL_21000 - 13F802	EasyTrip	232,40	-83,00	83,00	80,00
23-05-2018 12:03:08	23-05-2018 12:16:16	01-05-2018	Check ind	Check ind	308430 202	8	715	277 Forum St.	VAL_21000 - 13F802	EasyTrip	57,90	-70,00	70,00	70,00
23-05-2018 12:03:22	23-05-2018 12:16:16	01-05-2018	Check ind	Check ind	308430 202	2	1222	428 Forum St.	VAL_21002 - 13F802	EasyTrip	294,30	-23,00	23,00	23,00
23-05-2018 12:03:06	23-05-2018 12:16:16	01-05-2018	Check ind	Check ind	308430 202	1	201	78 Forum St.	VAL_21000 - 13F802	EasyTrip	56,20	-25,00	25,00	25,00
23-05-2018 12:07:33	23-05-2018 12:16:16	01-05-2018	Check ind	Check ind	308430 202	1	203	Forum St.	VAL_21002 - 13F802	EasyTrip	81,20	0,00	0,00	0,00
23-05-2018 12:07:33	23-05-2018 12:16:16	01-05-2018	Tank op-afslut	Tank op-afslut	308430 202	1	204	Forum St.	VAL_21002 - 13F802		381,20	300,00	300,00	
23-05-2018 12:07:33	23-05-2018 12:16:16	01-05-2018	Check ind	Check ind	308430 202	1	202	79 Forum St.	VAL_21002 - 13F802	EasyTrip	243,20	-38,00	38,00	38,00
23-05-2018 12:08:08	23-05-2018 12:16:16	01-05-2018	Check ind	Check ind	308430 202	8	58	23 Forum St.	VAL_21002 - 13F802	EasyTrip	136,00	-12,50	12,50	12,50
23-05-2018 12:09:24	23-05-2018 12:16:16	01-05-2018	Check ind	Check ind	308430 202	7	74	32 Forum St.	VAL_21002 - 13F802	EasyTrip	164,90	-12,50	12,50	12,50
23-05-2018 12:09:25	23-05-2018 12:16:16	01-05-2018	Check ind	Check ind	308430 202	4	587	223 Forum St.	VAL_21002 - 13F802	EasyTrip	78,00	-70,00	70,00	70,00
23-05-2018 12:14:02	23-05-2018 12:16:16	01-05-2018	Check ind	Check ind	308430 202	5	95	29 Forum St.	VAL_21000 - 13F802	EasyTrip	91,80	0,00	0,00	70,00
23-05-2018 12:18:15	23-05-2018 12:31:18	01-05-2018	Check ind	Check ind	308430 202	2	431	154 Forum St.	VAL_21002 - 13F802	EasyTrip	75,40	-70,00	70,00	70,00
23-05-2018 12:18:17	23-05-2018 12:31:18	01-05-2018	Check ind	Check ind	308430 202	8	255	87 Forum St.	VAL_21002 - 13F802	EasyTrip	200,00	-23,00	23,00	23,00
23-05-2018 12:18:19	23-05-2018 12:31:18	01-05-2018	Check ind	Check ind	308430 202	4	270	84 Forum St.	VAL_21002 - 13F802	EasyTrip	198,00	0,00	0,00	25,00
23-05-2018 12:30:51	23-05-2018 12:31:18	01-05-2018	Check ind	Check ind	308430 202	8	297	Forum St.	VAL_21002 - 13F802	EasyTrip	125,00	0,00	0,00	0,00
23-05-2018 12:30:51	23-05-2018 12:31:18	01-05-2018	Check ind	Check ind	308430 202	8	298	98 Forum St.	VAL_21002 - 13F802	EasyTrip	180,00	-25,00	25,00	25,00
23-05-2018 12:32:01	23-05-2018 12:31:18	01-05-2018	Tank op-afslut	Tank op-afslut	308430 202	3	1124	Forum St.	VAL_21002 - 13F802		254,40	300,00	300,00	
23-05-2018 12:32:01	23-05-2018 12:31:18	01-05-2018	Check ind	Check ind	308430 202	3	1125	428 Forum St.	VAL_21002 - 13F802	EasyTrip	341,50	-12,50	12,50	12,50
23-05-2018 12:32:01	23-05-2018 12:31:18	01-05-2018	Check ind	Check ind	308430 202	7	23	8 Forum St.	VAL_21002 - 13F802	EasyTrip	282,50	-12,50	12,50	12,50
23-05-2018 12:29:24	23-05-2018 12:31:18	01-05-2018	Check ind	Check ind	308430 202	11	104	29 Forum St.	VAL_21002 - 13F802	EasyTrip	99,90	0,00	0,00	70,00
23-05-2018 12:34:11	23-05-2018 12:47:10	01-05-2018	Check ind	Check ind	308430 202	8	503	Forum St.	VAL_21002 - 13F802	EasyTrip	282,05	0,00	0,00	0,00
23-05-2018 12:34:11	23-05-2018 12:47:10	01-05-2018	Check ind	Check ind	308430 202	8	504	194 Forum St.	VAL_21002 - 13F802	EasyTrip	222,05	-70,00	70,00	70,00
23-05-2018 12:36:27	23-05-2018 12:47:10	01-05-2018	Check ind	Check ind	308430 202	9	575	199 Forum St.	VAL_21002 - 13F802	EasyTrip	443,60	-25,00	25,00	25,00
23-05-2018 12:36:32	23-05-2018 12:47:10	01-05-2018	Check ind	Check ind	308430 202	1	887	273 Forum St.	VAL_21002 - 13F802	EasyTrip	131,00	-25,00	25,00	25,00
23-05-2018 12:36:33	23-05-2018 12:47:10	01-05-2018	Check ind	Check ind	308430 202	1	92	40 Forum St.	VAL_21002 - 13F802	EasyTrip	168,00	-25,00	25,00	25,00
23-05-2018 12:42:22	23-05-2018 12:47:10	01-05-2018	Check ind	Check ind	308430 202	7	105	Forum St.	VAL_21002 - 13F802	EasyTrip	159,90	0,00	0,00	0,00
23-05-2018 12:42:22	23-05-2018 12:47:10	01-05-2018	Check ind	Check ind	308430 202	7	106	38 Forum St.	VAL_21002 - 13F802	EasyTrip	134,90	-25,00	25,00	25,00
23-05-2018 12:45:02	23-05-2018 12:01:25	01-05-2018	Check ind	Check ind	308430 202	8	220	74 Forum St.	VAL_21002 - 13F802	EasyTrip	189,60	0,00	0,00	25,00

## ANKENÆVNETS BEGRUNDELSE:

Ankenævnet har tidligere til baggrund anmodet 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 har endvidere spurgt, om der foreligger undersøgelser eller oplysninger fra andre, der kan verificere Rejsekort A/S' udsagn om, at det hidtil ikke er forekommet, at rejsekort er checket korrekt ind, uden af dette er noteret på rejsekortet.

Rejsekort A/S har som svar herpå indsendt en 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.

Ankenævnet har foranlediget Rejsekort A/S til at foretage en analyse af systemet og registrering af data. Rejsekort A/S har herefter gennemført en omfattende og grundig analyse af logning af mere end 30 mio. transaktioner. Analysen har vist, at alle transaktioner med rejsekortet, herunder forsøg på check-ind eller check-ud, er registreret i rejsekortsystemet. Der er imidlertid fundet 341 forekomster af såkaldte "duplicate transactions", hvor den pågældende transaktion ved enten

check-ind eller check-ud ikke blev gengivet på selve rejsekortet, men hvor transaktionen alene 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 indklagede selskab modtaget oplysninger fra Back Office om denne sags konkrete rejse, som bekræfter oplysningerne på klagerens rejsekort om, at der ikke var checket en hund ind på klagerens rejsekort.

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

Metro Service har indsendt logs, der viser, at kun klageren var checket ind på rejsekortet på kontroltidspunktet, samt at check ind-standeren ikke var fejlbehæftet på tidspunktet.

Det fremgår af rejsekort rejseregler, at rejsekort skal checkes ind ved rejsens begyndelse, og at det er passagerens eget ansvar at der er checket korrekt ind.

Kontrolafgiften for manglende check-ind af klagerens hund blev derfor pålagt med rette.

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

Hvis klageren havde checket korrekt ind på check ind ekstrastanderen ville det have fremgået af displayet med et 1-tal ud for ikonet med en voksen og et 1-tal ud for ikonet for en hund. Desuden ville standeren vise teksten "1 voksen, 1 hund, ok – god rejse".

Pligten til at betale kontrolafgift er ikke betinget af, om passageren bevidst har forsøgt at unddrage sig betaling for rejsen, og det er derfor ankenævnets opfattelse, at der ikke har foreligget sådanne særlig omstændigheder, at klageren skal fritages for kontrolafgiften til hunden.

Klagerens oplysning om at det samme skulle være hændt ham ugen forinden, hvor kontrolløren undlod at udstede en kontrolafgift, kan ikke føre til et andet resultat. Ankenævnet bemærker i den forbindelse, at det ikke fremgår af de fremlagte logs, at der er sat et kontrolmærke af en steward på en rejse hvor kun en voksen var checket ind.

Ankenævnet bemærker videre, at Metro Service har beklaget klagerens dårlige oplevelse i forbindelse med kontrollen. 9+

Da kontrolafgiften ikke blev betalt inden 14-dages fristens udløb, var Metro Service berettiget til at sende en rykkerskrivelse den 18. juli 2018 med et rykkergebyr på 100 kr.

## **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. Af § 14 stk. 1, fremgår jernbanevirksomhedernes adgang til at

opkræve kontrolafgift og ekspeditionsgebyr for passagerer, der ikke foreviser gyldig rejsehjemmel (billetter og kort). Jf. § 14 stk. 4, fastsætter transportministeren nærmere regler om jernbanevirksomhedens adgang til at opkræve kontrolafgift og ekspeditionsgebyr, jf. stk. 1.

I henhold til § 4 i bekendtgørelse nr.1132 om kontrolafgifter af 08. september 2010, fastsætter jernbanevirksomheden bestemmelser om kontrolafgift i forretningsbetingelserne.

I de fælles landsdækkende rejseregler er der hjemmel til at udstede kontrolafgifter. Det anføres bl.a., at passageren skal have gyldig rejsehjemmel til hele rejsen, og at denne skal kunne vises frem for kontrolpersonalet under hele rejsen, ved udstigning, i metroen indtil metroens område forlades, og i S-tog og lokalbanetog indtil perronen forlades.

Passagerer, der ikke på forlangende viser gyldig billet eller kort, herunder korrekt ind-checket rejsekort, skal betale en kontrolafgift på 750 kr.

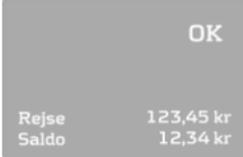
## Fra [www.rejsekort.dk](http://www.rejsekort.dk)

Når du checker ind eller ud, vil du høre én af de tre lyde, der er vist herunder.

Til hver lyd findes forskellige skærmbeskeder, som vil forklare hvad lyden betyder.

▶ **Alt er OK** Hør lyd  Hvad betyder lyden? ▲

Disse skærmbeskeder vises på kortlæseren, når du hører lyden for

◀ (Check ind)	▶ (Check ind)	(Check ud)
		
<a href="#">Vis mere om denne besked</a>	<a href="#">Vis mere om denne besked</a>	<a href="#">Vis mere om denne besked</a>

▶ **Vær opmærksom** Hør lyd  Hvad betyder lyden? ▲

◀ (Check ind)	▶ (Check ind)	(Check ud)
		
<a href="#">Vis mere om denne besked</a>	<a href="#">Vis mere om denne besked</a>	<a href="#">Vis mere om denne besked</a>

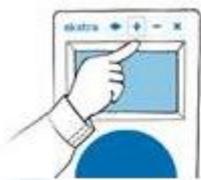
Noget er galt Hør lyd  Hvad betyder lyden? 

<p>(Check ind)</p> <div style="background-color: #0070C0; color: white; padding: 10px; text-align: center;"><b>OK</b></div> <p>Rejsekortet er allerede checket ind</p> <p><a href="#">Vis mere om denne besked</a></p>	<p>► (Check ind)</p> <div style="background-color: #0070C0; color: white; padding: 10px; text-align: center;"><b>Ugyldigt rejsekort</b></div> <p>Ring til kundecenter på 70 11 33 33</p> <p><a href="#">Vis mere om denne besked</a></p>	<p>(Check ind)</p> <div style="background-color: #0070C0; color: white; padding: 10px; text-align: center;"><b>Saldo for lav</b></div> <p>Ikke muligt at checke ind. Tank dit rejsekort op</p> <p><a href="#">Vis mere om denne besked</a></p>
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<p>(Check ind)</p> <div style="background-color: #0070C0; color: white; padding: 10px; text-align: center;"><b>Rejsekort på spærreliste</b></div> <p>Ring til kundecenter på 70 11 33 33</p> <p><a href="#">Vis mere om denne besked</a></p>	<p>► (check ind)</p> <div style="background-color: #0070C0; color: white; padding: 10px; text-align: center;"><b>Fejl</b></div> <p>For mange kort</p> <p><a href="#">Vis mere om denne besked</a></p>	<p>(Check ind)</p> <div style="background-color: #0070C0; color: white; padding: 10px; text-align: center;"><b>Fejl ved kort</b></div> <p>Prøv igen. Hold rejsekort hen på Det Blå Punkt.</p> <p><a href="#">Vis mere om denne besked</a></p>
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<p>(Check ud)</p> <div style="background-color: #808080; color: white; padding: 10px; text-align: center;"><b>Fejl</b></div> <p>Check ind mangler</p> <p><a href="#">Vis mere om denne besked</a></p>	<p>► (Check ud)</p> <div style="background-color: #808080; color: white; padding: 10px; text-align: center;"><b>Fejl</b></div> <p>Maksimal rejsetid overskredet</p> <p><a href="#">Vis mere om denne besked</a></p>
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[www.rejsekort.dk](http://www.rejsekort.dk) fremgår:



1

Press **+** to activate the check in extra function.



2

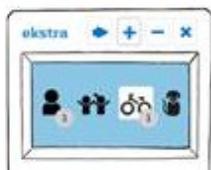
Place your Rejsekort on the blue check point and the menu will show.



3

Press **▶** to choose the customer type, you want to check in.

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4

Press **+** to choose number of travelers.



5

Confirm by placing your Rejsekort on the blue check point until you get the message "OK. Have a nice journey".

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

### **Klageren anfører følgende:**

"I have two complaints:

(1) The first is the way I have been treated by the Metro service -- both by the officers giving me the ticket, and also by the person [...] who corresponded with me when I complained.

(2) The second complaint is the ticket itself; I received a ticket because the system said I had not paid for my dog, but I am 95% sure I did pay for him, and the system made a mistake.

Prior to the event: I have lived here ten years. In the first year, nine years ago, I was poor -- and since no one checked tickets, I did not pay for my tickets. But then I got two tickets in one week, and since then, nine years ago, I have paid for every ticket, every time - to avoid the trouble, and because I was no longer poor.

The event: One week prior to the event on 23 May, I had been stopped *\*twice\**, by officers saying I had not paid for my dog. I insisted I did, because I am always very careful to pay -- to avoid trouble. Both times, they let me go. And so, I was even *\*extra\** careful, at the time of the event, to be *\*certain\** I paid for my dog -- to avoid this trouble. I even missed a few trains, just to take an extra minute, to be certain I paid for my dog -- to see the confirmation on the Rejsekort terminal.

And so, at the time of the event, I am 95% certain I paid for my dog, and that the system made a mistake, and did not register it. The two "near misses" were fresh in my mind.

I explained all this to the two women who issued me the ticket. I asked if we could get off the metro, so I could have time to fully explain, because I wanted to cooperate. One of the women was kind and understanding, but the other was the last kind of person you want to encounter: she did not listen at all, and was rude and dismissive. She appeared to be training the first woman. I tried to explain several times, calmly, but the way the second woman reacted angered me. She insisted I was lying, and that the system does not make mistakes. She asked for my ID, and I gave it to her, to cooperate -- but I did not know this meant she would give me a ticket. Had I known, I would not have given her my ID -- because I do not believe I deserved this ticket. I believe I checked in my dog, and the system made a mistake, and did not register it.

To be clear: I know the system shows that I did not check in my dog; but this is not proof that I did not; I think the system made a mistake.

They gave me a ticket, and I was angry. I came home straight away, and emailed a detailed description of the event and my complaint to the Metro service.

I received a reply the same day, from [...]. From the reply, it was clear [...] had either not read my complaint, or had not given it any thought, or just didn't care. She provided no new information. What she \*did\* provide, was a recent history of my trips, which showed no trips with my dog. \*\*But I had been travelling several times with my dog, so I ask you -- and I asked [...] -- what is more likely: that I made a mistake many times, despite being extra careful not to make a mistake, or that the system made some kind of routine mistake?\*

I could understand, if I made a mistake once -- but I cannot believe, that I made this mistake several times, when I was trying extra hard not to make mistakes, because I nearly got two tickets the week before.

I replied a second time, expressing my disappointment with how [...] had treated my complaint. I asked for proof that the system had not made a mistake, and I told her I rode with my dog several times and the system did not show it, and I asked for proof that I had not checked in my dog. I asked for video surveillance showing this -- I believe surveillance would show I \*did\* check in my dog, and exonerate me.

I believe, if I am asked to pay a fine, the Metro service should be able to provide proof that I made a mistake, or intentionally "evaded" a fare. But they are unable to do this, or unwilling.

I received a second reply from [...], with no new information. She said, "It is clear that if the system does not register a dog, then a dog has not been checked in." I contest this. I think it's possible that the system can make mistakes, and I believe this is what happened.

I replied, and asked for proof that the system had not made a mistake. [...] replied a third time, and said they would not provide this, and they considered the case closed, and I had to pay.

I am now appealing to you. On the grounds that people should not have to pay if \*the system\* makes mistakes. And that the Metro service (or any group who wants to issue a fine) should be able to prove that their system has not made a mistake, if they demand a person to pay. Computers make mistakes all the time. They're just programs made by people -- they're full of flaws, which is why all the apps on your phone always want to update.

I hope someone in your organization will finally consider this event thoroughly. I do not want to pay, because I believe with 95% certainty that I did not make a mistake.

If it can be proven, that I did not properly check in my dog -- if it can be proven they system did not make a mistake -- I will gladly pay.

I \*know\* the system shows I did not check in my dog. But this is not proof. I believe the system made a mistake, and this is why I don't want to pay."

## Indklagede anfører følgende:

"Like all other means of public transportation in the greater Copenhagen area, the Copenhagen Metro employs a self-service system, where the passenger is responsible for being in possession of a valid ticket, for the entire journey, before boarding the train. Passengers must be able to present a valid ticket on demand to the ticket inspectors.

In cases where passengers are not able to present a valid ticket, a fare evasion ticket will be issued, which is currently DKK 750, - for adults. This basic rule is a prerequisite for the self-service system that applies to travel by public transport. The above mentioned information is available on [www.m.dk](http://www.m.dk) and on Din Offentlige Transport - <https://www.rejsekort.dk/~media/rejsekort/pdf/flr/faelles-landsdaekkende-rejseregler.pdf> as well as on our information boards which are placed at every station. The information boards contain travel information in both English and Danish.

Our Metro staff is trained to issue fare evasion tickets to all customers without a valid ticket. They do not distinguish between an intentional or unintentional mistake. They only check the validity of the ticket. It is unfortunately not sufficient to enquire with a member of the public, regarding ticket information, as they may not be adequately informed concerning the journey the passenger wishes to undertake. In order to ensure correct travel information passengers should contact our Metro staff either in person or via call points on the station or in the Metro trains.

Call points can be found on all of our ticket vending machines, as well as yellow call points in several other places in every one of our stations. These call points can be used if the passenger requires assistance or guidance. The call point will connect the passenger directly to an operator in our control tower, which is manned 24 hours a day.

In the case in question, the complainant who traveled with his dog was met by a steward inspecting tickets on the 25<sup>th</sup> of May 2018 at 12:54 between Islands Brygge station and Sundby station. The complainant showed his rejsekort where he himself, but not the dog was checked in. Since there was no valid travel permit for the dog, a fare evasion ticket was issued in accordance with current rules.

The complainant is convinced that he checked the dog in and that either the rejsekort or the card reader at the Forum station must be affected by errors. In his objections, the complainant claims, among other things:

- That he is firstly 100% (and 99% and 95%) sure to have checked the dog in.
- That he would not cheat for DKK 6,-
- That he had experienced errors with rejsekort many times before.

In addition, the complainant also expresses that he was treated rudely and dismissively by both the steward who issued the fare evasion ticket and by the case manager.

We are very sorry that the complainant does not feel well treated, but after reading all the correspondence we cannot recognize that our staff have neglected to provide the friendly service we demand from all employees.

The Steward made a note on the electronic fee that the passenger was very angry, which the complainant himself also describes in his inquiries.

- From Rejsekort A/S we have received a copy of the complainant's travel history. As shown in the attached file (Rejsehistorik.pdf), only an adult has been checked in, but no dog. We also requested a printout from the specific card reader to make sure that the equipment was not defective, and that is not the case (see attached Udstyrshistorik.pdf).
- We must emphasize that we never adhere to the passengers' intentions about buying tickets, but only if a valid ticket can be displayed, and if it not issue a fare evasion ticket.
- We have also been in contact with Rejsekort A/S in order to find out if there have been inquiries regarding defects in the anonymous rejsekort used by the complainant but Rejsekort have no cases

referring to the complainant's rejsekort and therefore it is not possible to confirm the complainant's statements.

Rejsekort A/S also states that there can be no periodic errors on a rejsekort; either it works or completely stops working and needs to be exchanged/renewed depending on the cause of the error.

The complainant also states that one week before the event on 23 May he had been stopped twice by officers saying that he had not checked the dog in, but that the complainant had insisted that he had done that, and that in both cases the officers let the complaint go. From Rejsekort A/S we have received a printout of the trips made on the anonymous rejsekort. When we read the printout, we can see that the complainant has checked in the a dog for several trips, but we can also see that complainant has completed numerous trips without a dog.

When a rejsekort is controlled - whether at Metro or, for example, DSB, the small aggregate used to control if a card is checked in, puts an electronic control mark on the card, which can then be seen in the history - see, for example, the history for just 23 May, where a control mark is set. However, during the period referred to by the complainant, there is no control mark on the card at all, which means that the complainant has not had his rejsekort controlled during that period. So it is not possible to determine the complainant's information that he has previously checked his dog in, but that it was not registered and that he (the complainant) when explaining himself to the inspectors has been allowed to go without further action.

The complainant writes that he gave his ID to the steward, but if he had known that he were going to receive fare evasion ticket he would never have given his information.

In The Common Rules of Travel you can read that passengers are required to legitimize themselves by driving license or other legally valid document and that the steward has the opportunity to invoke the police if the passenger is unable/do no want to inform about his/her identity.

In the mail to the Board of Appeal, the complainant writes: *"I have lived here for ten years. In the first year, nine years ago, I was poor - and since no one checked tickets, I did not pay for my tickets. But then I got two tickets in one week, and since then, nine years ago, I have paid for every ticket "*

As the complainant on several occasions has been subject to fare evasion tickets, we therefore wonder that he was surprised that the reason he was asked to identify himself was in connection to the issue of the fare evasion ticket.

Since the complainant's dog was not checked in on the rejsekort and since there was no fault with the equipment, we believe that the missing check in is due to a malfunction on the part of the complainant, which is why we consider the fare evasion ticket rightly imposed.

In the specific case, two payment reminders have been submitted, so that our total claim amounts to DKK 575, -"

### **Klageren anfører hertil:**

"I don't expect to win this case. I expect to lose:) I expect to lose, because I'm one little person, taking on a big company, and their big policies – and the little person rarely wins.

I also expect to lose, because in your letter I received 27 September, it says, "We can inform you that similar cases have been settled in favour of the transport company."

I basically always expected to lose. So why have I fought it? And why do I want to keep the case open?

Because it's about the principle to me: I don't believe people should be punished, without **proof** of a crime. I believe in innocence until **proven** guilty.

And I don't think the Metro Service has **proven** I did not take the correct steps to check my dog in. I also don't think they've **proven** their system did not make a mistake.

In other words, it is still **possible**, that I did everything correctly, and for some crazy technical reason, the system did not register my dog ticket..

And I still feel, that this is what happened.

I could be wrong. It's possible that I did make a mistake. I can admit this. But again, I feel strongly, that I did not make a mistake – because I was trying so very hard to do everything correctly – going slow, watching the terminal, looking to see that I had checked in correctly..

And the Metro Service has not **proven** to me, that I made a mistake.

So I ask the case officers, have they **proven** it to you?

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There's a lot of data in this case – too much:) Many papers, data reports, messages and paragraphs. I've read each one carefully. And I regret if the case officers have to read it all..

Because I don't think most of it matters:)

The only thing that seems to matter, to me, is this: has the Metro Service **proven** I did not check in my dog correctly?

Have they **proven**, that I did not hit all the right buttons, in the right order, so that my dog should have had a ticket?

I don't think they have proven this.

None of their information, **proves** that I hit the wrong buttons. And so it is **possible**, that I did everything correctly, and that the complex computer system made a mistake.

What their data **does** show, is that it is **possible**, that I made a mistake. But I have never contested this. I know it is possible, that I made a mistake..

But is **possibility** that I made a mistake, enough to convict and demand a penalty?

What if we convicted and penalized everyone who **possibly** did something wrong?

The standard of proof seems unacceptably low.

So I end where I began: it's about the principle to me. I don't believe we should convict and penalize people for **possibly** making a mistake.

Have they **proven** I did something wrong?"

### **Indklagede anfører hertil:**

"We have carefully read the complainant's recent remarks on this case, but we do not believe that the case has been added any new information.

Since we also included printouts in our first response that show that there has been no malfunction on the equipment, we have no further comments on this case.

However, we can see that the complainant's inquiry into the Board of Appeal has crossed our second payment reminder (off DKK 100,-), which we therefore cancel. Thus, our total claim in this case is reduced to DKK 475, -"

På ankenævnets vegne



Tine Vuust  
Nævnshoved