

## AFGØRELSE FRA ANKENÆVNET FOR BUS, TOG OG METRO

- Journalnummer:** 2022-0269
- Klageren:** XX  
2300 Kbh. S
- Indklagede:** Metroselskabet I/S v/Metro Service A/S  
**CVR-nummer:** 21 26 38 34
- Klagen vedrører:** Nedsat kontrolafgift på 125 kr. grundet manglende forevisning af billet, fordi mobiltelefonen var løbet tør for strøm i kontrolsituationen, samt 68 kr. til køb af ny billet
- Parternes krav:** Klageren ønsker, at ankenævnet annullerer den nedsatte kontrolafgift og træffer afgørelse om, at Metro Service skal godtgøre hans udgifter til køb af ny billet på baggrund af stewardens vejledning
- Indklagede fastholder kontrolafgiften og afviser at skulle betale for klagerens køb af en ny billet
- Ankenævnets sammensætning:** Nævnensformand, landsdommer Tine Vuust  
Jacob Ruben Hansen (2 stemmer)  
Helle Berg Johansen  
Dorte Lundqvist Bang

Ankenævnet for Bus, Tog og Metro har på sit møde den 14. juni 2023 truffet følgende

### **AFGØRELSE:**

Metro Service er berettiget til at opretholde kravet om betaling af kontrolafgiften på 125 kr. og til at afvise at betale for klagerens køb af ny billet til 68 kr.

Da klageren ikke har fået medhold i klagen, tilbagebetales klagegebyret ikke, jf. ankenævnets vedtægter § 24, stk. 2, modsætningsvist.

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

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

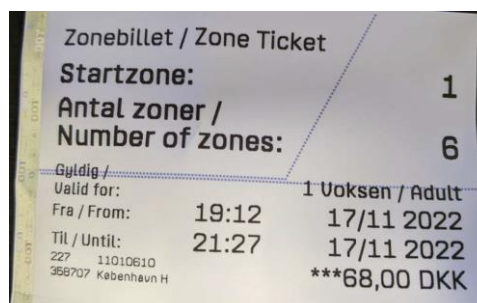
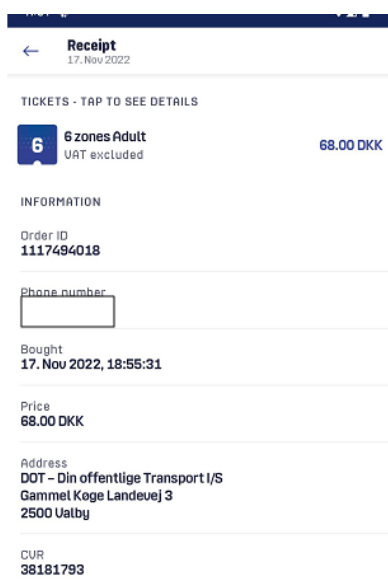
## SAGENS OMSTÆNDIGHEDER:

Klageren skulle den 17. november 2022 rejse med Metroen til København H, hvorfra han skulle videre med DSB-tog. Ifølge klageren købte han på sin mobiltelefon, der kl. 18:55 havde 25% batteri, en billet til 6 zoner, hvorefter han steg om bord på Metroen.

Efter Gammel Strand st. blev klagerens rejsehjemmel kontrolleret, men da mobiltelefonen var løbet tør for strøm, blev han kl. 19:10 pålagt en kontrolafgift på 750 kr. for manglende forevisning af billet.

Kontrolafgiften blev udstedt til København H, hvor klagerens Metrorejse sluttede. På København H købte klageren kl. 19:12 en kontantbillet til 6 zoner til 68 kr. til den videre rejse med DSB.

Den 18. november 2022 anmodede han Metro Service om at annullere kontrolafgiften og om at godtgøre ham den ekstra udgift til køb af en ny billet på 68 kr., og han vedhæftede de to billetter:



Den 22. november 2022 nedsatte Metro Service kontrolafgiften til 125 kr. fordi de kunne se, at klagerens mobilbillet var gyldig til den zone, hvori han var blevet kontrolleret, men de afviste at godtgøre de 68 kr. for kontantbilletten.

Klageren indbragte derpå sagen for ankenævnet, hvor han tilføjede, at DOT-appen bruger uforholdsmæssigt meget strøm, hvilket gjorde, at hans telefon løb tør for strøm, samt at han udtrykkeligt havde spurgt Metrostewarden om, hvad han skulle gøre for at fortsætte rejsen, og stewarden havde eksplicit rådgivet ham om at købe endnu en billet. Men dette var forkert rådgivning, når kontrolafgiften også fungerede som billet i yderligere 30 minutter, og han havde dermed betalt dobbelt pris for rejsen.

## **ANKENÆVNETS BEGRUNDELSE FOR AFGØRELSEN:**

Det fremgår af de Fælles landsdækkende rejseregler, at der kan pålægges kontrolafgift til en passager, hvis telefon er løbet tør for strøm i kontrolsituationen. Metro Service har i overensstemmelse med ankenævnets praksis nedsat kontrolafgiften til 125 kr., når det konstateres, at passageren havde en gyldig billet, som ikke kunne forevises i kontrolsituationen grundet manglende strøm på telefonen.

Ankenævnet finder, at der ikke har foreligget sådanne særlige omstændigheder, at kontrolafgiften helt skal frafaldes.

En kontrolafgift fungerer som billet til den station, hvor passageren afslutter sin rejse i det pågældende transportmiddel. En kontrolafgift i en Metro er derfor ikke gyldig billet til rejse med bus, tog, Lokaltog eller letbane. Princippet gælder for alle kontrolafgifter.

Det beroede på klagerens eget forhold, at hans telefon løb tør for strøm undervejs på rejsen, hvilket gjorde, at han ikke kunne forevise nogen gyldig billet. Den udstedte kontrolafgift i Metroen kunne ikke anvendes som billet i DSB-toget. Klageren ville dermed have risikeret at blive pålagt endnu en kontrolafgift på 750 kr. i DSB-toget, hvis han ikke købte en ny rejsehjemmel. Den rådgivning, som stewarden gav klageren om at købe en ny billet, var derfor korrekt. Klagerens nye billet kostede 68 kr. og var dermed billigere end en kontrolafgift på 750 kr., uanset om denne efterfølgende ville blive nedsat til 125 kr. af DSB.

Som følge af det anførte er Metro Service berettiget til at afvise klagerens krav om godtgørelse af 68 kr.

## **RETSGRUNDLAG:**

Ifølge § 2, stk. 1, jf. § 3 nr. 3 i lovebekendtgørelse 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 trafikskaber 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 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.

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

### **Klageren anfører følgende:**

"I purchased a ticket using the DOT Application for 6 zones for 68 DKK. While traveling on my journey, my phone ran out of power, and as a result, I was given a fare evasion ticket even though I had properly paid my ticket. I was told by the ticketing agent that I could just complain to the metro company and show my proof of purchase for my fare, and they would cancel the fine, so I accepted the fine because of this statement, which turned out to be an outright lie. I then purchased an additional ticket for 68 DKK, so I effectively paid twice the fare for my journey, a total of 136 DKK.

I have shown proof of payment in my original complaint, which the metro company have acknowledged that I did pay appropriately, but the metro company refuses to cancel the fare evasion ticket, and expect me to still pay a fine of 125 DKK.

This is quite literally extortion by the metro system. If the metro service provide an application to purchase tickets, then they need to accept this proof of payment even when there is a problem with the application on device, as the traveler has appropriately paid for their journey. The metro service have the ability to call their office or check online if a customer has appropriately paid for the ticket, but they refuse to do so simply because it is a burden for them, which is negligence, and instead extort money from their customers through fines.

I will not accept negligent and extortive behavior from a company. This is a corrupt system that inappropriately penalizes people who have honestly paid for their journey, and just want to live their life earnestly. This is an aggressive practice from a company that does abide by the consumer fair treatment in Europe. If I appropriately pay for a service, then I should NOT be fined for "evading to pay" for that service, which is not an accurate representation of what actually happened.

[https://europa.eu/youreurope/citizens/consumers/unfair-treatment/index\\_en.htm](https://europa.eu/youreurope/citizens/consumers/unfair-treatment/index_en.htm)."

### **Indklagede anfører følgende:**

"In the specific case, the complainant was met by our inspector November 17<sup>th</sup>. 2022 at 19:10 between Gammel Strand station and København H. The complainant explained to the steward that he had a valid ticket but that his phone had run out of power. As the complainant had no other form of ticket, a fare evasion ticket was issued in accordance with applicable rules.

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 a control 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 also appears from the [Joint-National-Travel-Regulations.ashx \(rejsekort.dk\)](#)

If you have bought a ticket on your phone but cannot show it, e.g., because the phone has run out of power, the fare evasion ticket can be reduced to DKK 125 if you contact customer service within 14 days and if you can document ownership of the phone the ticket was purchased on. It is thus described in the Travel Rules:

## 2.7. Inspection fee

### 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. This also applies if the customer has purchased a travel document via a mobile device that cannot be inspected, for example if it has run out of power or been broken.

### 2.7.5. Commuters

Customers who hold a valid personal Commuter Pass, but cannot present it for inspection, may have the inspection fee reduced to DKK 125. A copy of the Commuter Pass/season ticket or Rejsekort number must be sent to the customer centre of the transport company which issued the inspection fee, and by no later than 14 days after the issue of the inspection fee.

Customers who have signed up for the Forgotten Card scheme with DSB and are unable to produce their Commuter Pass when requested on a DSB train, can also, by self-identification with their CPR number, travel 6 times per year in the area of validity of the Commuter Pass without having to pay an inspection fee.

The complainant approached Customer Service and requested partly to have the fare evasion ticket canceled and partly to be refunded the 6-zone ticket he had bought in a TVM at København H. to be able to continue his journey from Copenhagen to his final destination.

As it could be established that the telephone used belonged to the complainant and that he had been in possession of a valid ticket at the time of the inspection, the fare evasion ticket was immediately reduced to DKK 125.

The complainant's request to be refunded the ticket he bought to travel onward could not be granted.

If the complainant's onward journey had been with Metro, he could have traveled on the fare evasion ticket for 30 minutes, but since the complainant obviously had to go further than the 4 zones in which Metro operates, he had to purchase a ticket in order to complete his journey.

Metro Service does not extort its passengers. The duty to present a valid travel document at ticket control applies to everyone, and if you cannot do this, you will have to pay a fare evasion ticket, which in some cases can be reduced to DKK 125, as in the specific case.

The fare evasion ticket is thus imposed correctly and in accordance with applicable regulations. We also consider the subsequent case processing and decision to be correct and in full compliance with applicable rules and laws and we therefore maintain that the complainant must pay DKK 125 for the reduced fare evasion ticket, and we refuse to reimburse the complainant for the ticket he had to buy to travel onward still without power on his phone."

## **Hertil har klageren gjort gældende:**

"This situation is completely unreasonable. I paid double the amount required for my travel on the metro, and yet I am being fined an additional amount of 125 DKK. When I purchased the ticket, I had more than 25% of battery left on my phone, which should have been more than enough for my journey, but my phone is old (I cannot currently afford to buy another phone), and on that day, my phone battery started plummeting down to 0% once it falls below a certain level (around 15%). I can send a video to show what happens, but essentially, my phone now drops from 15% power to 0% in almost 10 seconds. How could I have possibly known this would start happening on that day? It now happens every single time, and a big part of

this problem is applications consuming an unreasonable amount of power, such as the DOT application itself.

From the metro's response:

*> If the complainant's onward journey had been with Metro, he could have traveled on the fare evasion ticket for 30 minutes,*

The metro agent who issued my ticket did NOT inform me of this properly. I explicitly asked him what I needed to do to continue my journey, and I was explicitly informed by him that I would have to pay for another ticket. I was also explicitly informed by the agent that I could have the fine reversed upon proving that I had appropriately paid for my original fare, and he also implied that I could potentially have the duplicate ticket refunded. Clearly, the metro agent did not have the correct information, and the agents are not being trained properly, as this is a critical piece of information. It is negligent for the metro service to provide incorrect information to their customers.

The metro service describes their process as an "honor system" but it is a "deferred system", which is a scheme to entrap their customers into situations where they can extort fines to generate additional revenue when honest mistakes happen, like when a parent is dealing with a screaming child, and even when their own systems break. The fees from fines are an exploitative way for the metro service to generate more undeserved revenue. It is an absolute scam.

There are constant ongoing problems with the DOT application such as payments being reported as "payment successful", but the ticket does not actually get purchased properly. This happened to us on Nov 26th at 13:55, but we managed to catch the issue before boarding the train, and instead bought paper tickets. The extremely poor maintenance of the DOT application is complete negligence, and it also disproportionately affects foreigners, who do not have Rejsekorts (we have now purchased Rejsekorts ourselves as a result of this completely unreasonable situation).

The most frustrating part of this situation is that I am an extremely honest and earnest person in life. Whenever there is ever a situation where I accidentally ride without a ticket, such as when the time expires before ending the journey, I actually buy an additional ticket to pay for my journey appropriately. It is incredibly disheartening that the metro service is the opposite in that they scam hard earned money from their customers for which they have not appropriately provided a service for the value.

The metro in Copenhagen is an absolute nightmare and the issues go well beyond the problems I described. The worst issue being the extremely short amount of time that is given to board trains and the aggressively violent way in which the doors close. Young children, as well as elderly people, are constantly separated from their friends or families that they are traveling with because of this issue (and in many cases causes harm as well). The way in which the doors close on the metro, and the many other maligned practices by the metro service, is very abusive to the customers.

This situation has added a significant amount of stress to my life, and has taken away some of the very little free time and energy I have that I should be able to spend focused on my family, from a situation where I more than properly paid for the fare. This type of situation makes it an absolute nightmare living in Copenhagen and I cannot express enough that this whole situation is completely unreasonable. I will be reporting the metro service for negligent and abusive practices to the European Commission for consumers. It is extremely disappointing that this absolutely horrible metro service is acceptable in a country like Denmark."

**Til dette har indklagede svaret:**

“We have read the complainant's explanation that his cell phone is old and cannot hold power, but we do not consider it relevant to the case.

The fact that the complainant chose to use an unstable cell phone to buy a ticket cannot be Metros responsibility.

Metro has already reduced the inspection fee to DKK 125 according to current regulations and we refer to our previous response in this matter.

When an inspection fee is issued in the Metro, it is always the last station that the train has left that is listed as the from-station and the passenger is asked where he/she is going - and that station is then noted as the to-station.

In the specific control situation, the complainant stated that he had to go to Copenhagen H station.

We have no comments on the complainant's other remarks as we read it as being irrelevant in the specific case which concerns the complainant's inability to present a valid ticket in the control situation on 17 November.”

På ankenævnets vegne



Tine Vuust  
Nævnensformand