



1, 2, 3, Count With Me! **A Two-Part Special on How to Count Days in Contracts & Resales**

Part II: Diving Deeper into Business Day Defined

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Welcome to Part II of this Two-Part Special, which dives deeper into a Legal Information Line frequently asked question about whether the definition of a business day also includes business hours. But quickly, to summarize what was [discussed in Part I](#), overall real estate licensees should:

Read the contract!

Mark calendars!

Constantly follow-up to ensure the transaction is on track!**

**This includes ensuring the other parties to the transaction (the lender, home inspectors, title company, etc.) understand their deadlines and responsibilities. Additionally, its vital agents have a strong grasp on the time frames appraisers, home inspectors, etc. are operating on, so that realistic and competent dates can be entered into the contract from the get-go, which puts clients in the best position, rather than at the mercy of the seller agreeing to an extension!

Question. Does “Business Day” aside from being considered a working day (not weekends or holidays), include time e.g. 9 AM to 5 PM?

Answer. First, agents would look at their contract to see if a time is specified in writing. I’m guessing time is not in the boilerplate language to account for the fact that there’s no standardized business working hours, especially in today’s digital day and age of businesses open around the clock.

But - if the particular escrow company has established working hours of, let’s say 9 AM - 6 PM, and performance of funds hasn’t been achieved (as per the contract - posted, deposited, etc.) by end of business day as confirmed by the escrow officer, it is reasonable to presume there may be a breach of performance.



To strengthen reasonableness in that presumption, best practices could include:

1. Written confirmation from the escrow officer that the funds are not deposited, not in transit, and perhaps a policy statement that funds cannot be accepted automatically after closing hours
2. Reaching out to the other agent for a status update
 - a. Clients are not obligated to agree to an extension because remember *time is of the essence* - and can demand specific performance.
3. If possible, confirming the next day funds have still not appeared
4. Deferring to your broker for additional guidance

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