## DECISION

<u>Dispute Codes</u>     CNC, FF

<u>Introduction</u>

This was the hearing of the tenants' application to cancel a one month Notice to End Tenancy for cause.  The hearing was conducted by conference call.  The named tenant and the landlord's representative participated in the hearing

<u>Issues(s) to be Decided</u>

Should the Notice to End Tenancy be cancelled?
Is the landlord entitled to an order for possession?

<u>Background and Evidence</u>

The evidence, acknowledged by the tenants established that the tenants have been repeatedly late paying rent over the course of the tenancy.  The tenant submitted evidence concerning the extreme financial hardship the tenants have experienced and that affected their ability to pay rent on time.  The tenants' circumstances do not constitute a ground for cancelling the Notice to End Tenancy.   Rent is current to the end of October.

The landlord requested an order for possession in the event that I uphold the Notice to End Tenancy.  The landlord's representative said that if the tenants made future rent payments on time the landlord might be prepared to allow the tenancy to continue, but that would be at the discretion of the landlord.

Analysis

On the evidence there is no basis to cancel the Notice to End Tenancy. The landlord's representative has stated that it may exercise its discretion to allow the tenancy to continue if the tenants future rent payments are made on time.

I dismiss the tenant's application to cancel the notice to End Tenancy and I make no order with respect to the filing fee for this application. Pursuant to the landlord's request I grant the landlord an order for possession effective November 2, 2010 after service on the tenant. This order may be filed in the Supreme Court and enforced as an Order of that Court.

I direct that the order for possession shall be of no force or effect if not enforced by January 2, 2010.